

1 UNITED STATES DISTRICT COURT  
 2 FOR THE NORTHERN DISTRICT OF OHIO  
 3 EASTERN DIVISION

4 IN RE: NATIONAL )  
 5 PRESCRIPTION ) MDL No. 2804  
 6 OPIATE LITIGATION )  
 7 \_\_\_\_\_ ) Case No.  
 8 ) 1:17-MD-2804  
 9 )  
 10 THIS DOCUMENT RELATES ) Hon. Dan A.  
 11 TO ALL CASES ) Polster  
 12 )

13 WEDNESDAY, JANUARY 9, 2019

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
 15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Michael  
 18 Wessler, held at the offices of STINSON  
 19 LEONARD STREET LLP, 7700 Forsyth Boulevard,  
 20 Suite 1000, St. Louis, Missouri, commencing  
 21 at 9:02 a.m., on the above date, before  
 22 Carrie A. Campbell, Registered Diplomat  
 23 Reporter and Certified Realtime Reporter.

24 - - -

25 GOLKOW LITIGATION SERVICES  
 877.370.3377 ph | 917.591.5672 fax  
 deps@golkow.com

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 LIEFF CABRASER HEIMANN &amp; BERNSTEIN, LLP</p> <p>4 BY: MARK P. CHALOS</p> <p>5 mchalos@lchb.com</p> <p>6 222 2nd Avenue South, Suite 1640</p> <p>7 Nashville, Tennessee 37201</p> <p>8 (615) 313-9000</p> <p>9 and</p> <p>10 BY: PETER ROOS</p> <p>11 proos@lchb.com</p> <p>12 275 Battery Street, 29th Floor</p> <p>13 San Francisco, California 94111</p> <p>14 (415) 956-1000</p> <p>15 Counsel for Plaintiffs</p> <p>16</p> <p>17 ROPES &amp; GRAY, LLP</p> <p>18 BY: WILLIAM DAVISON</p> <p>19 william.davison@ropesgray.com</p> <p>20 MAX R. MAEROWITZ</p> <p>21 max.maerowitz@ropesgray.com</p> <p>22 800 Boylston Street</p> <p>23 Boston, Massachusetts 02199-3600</p> <p>24 (617) 951-7000</p> <p>25</p> <p>ARMSTRONG TEASDALE, LLP</p> <p>BY: SARAH E. HARMON</p> <p>sharmon@armstrongteasdale.com</p> <p>7700 Forsyth Boulevard, Suite 1800</p> <p>St. Louis, Missouri 63105</p> <p>(314) 621-5070</p> <p>Counsel for Cardinal Health, Inc.</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 APPEARANCES..... 2</p> <p>4 EXAMINATIONS</p> <p>5 BY MR. CHALOS..... 9</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 No. Description Page</p> <p>9 Mallinckrodt Plaintiffs' Notice of Oral 9</p> <p>10 Wessler 1 Videotaped Deposition of</p> <p>11 Michael Wessler and</p> <p>12 Requests for Production of</p> <p>13 Documents</p> <p>14 Mallinckrodt Michael Wessler LinkedIn 14</p> <p>15 Wessler 2 profile printout</p> <p>16</p> <p>17 Mallinckrodt Performance Management 38</p> <p>18 Wessler 3 Document, October 2004,</p> <p>19 MNK-T1_0007845224 -</p> <p>20 MNK-T1_0007845241</p> <p>21 Mallinckrodt Organizational chart, 72</p> <p>22 Wessler 4 MNK-T1_0000000264 -</p> <p>23 MNK-T1_0000000287</p> <p>24 Mallinckrodt Separation of Employment 79</p> <p>25 Wessler 5 Agreement and General</p> <p>Release,</p> <p>MNK-T1_0007845172 -</p> <p>MNK-T1_0007845199</p> <p>Mallinckrodt Separation Agreement 85</p> <p>Wessler 6 Summary for Payroll</p> <p>Purposes Only,</p> <p>MNK-T1_0007845168 -</p> <p>MNK-T1_0007845171</p>
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<p>1 JACKSON KELLY, PLLC</p> <p>2 BY: SYLVIA WINSTON NICHOLS</p> <p>3 sylvia.winston@jacksonkelly.com</p> <p>4 (VIA TELECONFERENCE)</p> <p>5 150 Clay Street, Suite 500</p> <p>6 Morgantown, West Virginia 26501</p> <p>7 (304) 284-4138</p> <p>8 Counsel for AmerisourceBergen</p> <p>9</p> <p>10</p> <p>11 JONES DAY</p> <p>12 BY: NICHOLAS HODGES</p> <p>13 nhodges@jonesday.com</p> <p>14 4655 Executive Drive, Suite 1500</p> <p>15 San Diego, California 92121</p> <p>16 (858) 314-1200</p> <p>17 Counsel for Walmart</p> <p>18</p> <p>19 FOX ROTHSCHILD LLP</p> <p>20 BY: ADAM BUSLER</p> <p>21 abusler@foxrothschild.com</p> <p>22 (VIA TELECONFERENCE)</p> <p>23 1301 Atlantic Avenue, Suite 400</p> <p>24 Atlantic City, New Jersey 08401</p> <p>25 (609) 572-2355</p> <p>Counsel for Validus Pharmaceuticals</p> <p>ARNOLD &amp; PORTER KAYE SCHOLER, LLP</p> <p>BY: DAVID HIBEY</p> <p>david.hibey@arnoldporter.com</p> <p>(VIA TELECONFERENCE)</p> <p>601 Massachusetts Avenue, NW</p> <p>Washington, DC 20001-3743</p> <p>(202) 942-5000</p> <p>Counsel for Endo Pharmaceuticals Inc., and Endo Health Solutions Inc.</p> <p>VIDEOGRAPHER:</p> <p>JAMES ARNDT,</p> <p>Golkow Litigation Services</p>	<p>1 Mallinckrodt Handwritten notes from 86</p> <p>2 Wessler 7 interview,</p> <p>3 MNK-T1_0007845318 -</p> <p>4 MNK-T1_0007845323</p> <p>5</p> <p>6 Mallinckrodt Magnacet Presentation to 87</p> <p>7 Wessler 8 Argent, 9/17/2007,</p> <p>8 MNK-T1_0002713694</p> <p>9</p> <p>10 Mallinckrodt E-mail(s), 106</p> <p>11 Wessler 9 MNK-T1_0003065351</p> <p>12 Mallinckrodt Pharmacy Guaranteed Sales 110</p> <p>13 Wessler 10 Program Selling Scenario,</p> <p>14 MNK-T1_0003064798</p> <p>15 Mallinckrodt 2009 TussiCaps A&amp;P Budget 113</p> <p>16 Wessler 11 Presentation, December 10,</p> <p>17 2008,</p> <p>18 MNK-T1_0001126586</p> <p>19</p> <p>20 Mallinckrodt Mallinckrodt Interoffice 124</p> <p>21 Wessler 12 Correspondence, to VJ</p> <p>22 Kaiman from Marco Polizzi,</p> <p>23 MNK-T1_0007901756 -</p> <p>24 MNK-T1_0007901762</p> <p>25</p> <p>1 Mallinckrodt FY10 TussiCaps and Exalgo 127</p> <p>2 Wessler 13 Commercial Plans, October</p> <p>3 28, 2009,</p> <p>4 MNK-T1_0001192760</p> <p>5 Mallinckrodt Covidien Specialty 145</p> <p>6 Wessler 14 Pharmaceuticals Medical</p> <p>7 Affairs Team Meeting,</p> <p>8 February 18, 2010,</p> <p>9 MNK-T1_0001188838</p> <p>10 Mallinckrodt Exalgo 32mg Launch Update, 158</p> <p>11 Wessler 15 June 25, 2012,</p> <p>12 MNK-T1_000078285 -</p> <p>13 MNK-T1_000078350</p>

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<p>1 Mallinckrodt FY15 Xartemis XR Brand 172 Wessler 16 Planning, Key Strategic 2 Imperatives &amp; Critical Success Factors, August 7, 3 2014, Michael Wessler, Product Director, 4 MNK-T1_0000942223 5 (Exhibits attached to the deposition.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 defendants. 09:02:51 2 MR. HODGES: Nick Hodges for 09:02:53 3 Walmart. 09:02:53 4 MS. HARMON: Sarah Harmon for 09:02:55 5 Cardinal Health. 09:02:55 6 VIDEOGRAPHER: Will counsel 09:02:56 7 present on the phone please identify 09:02:57 8 themselves. 09:02:59 9 MR. BUSLER: This is Adam 09:03:05 10 Busler from Fox Rothschild on behalf 09:03:08 11 of Validus Pharmaceuticals. 09:03:08 12 MR. HIBEY: David Hibey of 09:03:10 13 Arnold &amp; Porter for Par and Endo. 09:03:12 14 MS. WINSTON: Sylvia Winston 09:03:13 15 from Jackson Kelly for 09:03:17 16 AmerisourceBergen. 09:03:19 17 MR. CHALOS: Adam, can you say 09:03:23 18 what company you're representing 09:03:26 19 again, please? 09:03:27 20 MR. BUSLER: It's Validus. 09:03:29 21 VIDEOGRAPHER: The court 09:03:34 22 reporter is Carrie Campbell, and she 09:03:36 23 will now swear in the witness. 09:03:37 24 25</p>
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<p>1 VIDEOGRAPHER: We are now on 09:01:46 2 the record. My name is James Arndt. 09:02:09 3 I'm a videographer for Golkow 09:02:12 4 Litigation Services. 09:02:13 5 Today's date is January 9, 09:02:13 6 2019, and the time is 9:02 a m. 09:02:17 7 This video deposition is being 09:02:21 8 held in St. Louis, Missouri, in the 09:02:22 9 matter of the National Prescription 09:02:24 10 Opiate Litigation for the United 09:02:26 11 States District Court for the Northern 09:02:28 12 District of Ohio, Eastern Division. 09:02:30 13 The deponent is Michael 09:02:31 14 Wessler. 09:02:33 15 Will counsel please identify 09:02:33 16 themselves. 09:02:34 17 MR. CHALOS: Mark Chalos for 09:02:35 18 the plaintiffs. 09:02:37 19 MR. ROOS: Peter Roos for the 09:02:39 20 plaintiffs. 09:02:40 21 MR. DAVISON: Williams Davison 09:02:42 22 on behalf of Mallinckrodt, LLC, 09:02:43 23 SpecGx, LLC, and the witness. 09:02:46 24 MR. MAEROWITZ: And Max 09:02:48 25 Maerowitz on behalf of the same 09:02:49</p>	<p>1 MICHAEL WESSLER, 2 of lawful age, having been first duly sworn 3 to tell the truth, the whole truth and 4 nothing but the truth, deposes and says on 5 behalf of the Plaintiffs, as follows: 6 09:03:43 7 DIRECT EXAMINATION 09:03:43 8 QUESTIONS BY MR. CHALOS: 09:03:44 9 Q. Thank you, Mr. Wessler, for 09:03:45 10 being here today. 09:03:48 11 Have you ever given a 09:03:49 12 deposition before? 09:03:50 13 A. No, I have not. 09:03:51 14 Q. Okay. So I'm sure you've 09:03:52 15 talked with your counsel about how to conduct 09:03:53 16 yourself here today. If I ask a question 09:03:56 17 that you don't understand, will you please 09:03:59 18 let me know that you don't understand it? 09:04:01 19 A. Yes. 09:04:03 20 Q. Okay. And if you answer the 09:04:03 21 question, I'm going to assume that you 09:04:05 22 understood it. 09:04:07 23 Is that fair? 09:04:07 24 A. Yes. 09:04:08 25 (Mallinckrodt-Wessler Exhibit 1 09:04:10</p>

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<p>1 marked for identification.) 09:04:10</p> <p>2 QUESTIONS BY MR. CHALOS: 09:04:10</p> <p>3 Q. Okay. Let me hand you what we 09:04:11</p> <p>4 have marked as Exhibit Number 1, which is the 09:04:12</p> <p>5 deposition notice for today. 09:04:15</p> <p>6 We've got paper copies of most 09:04:22</p> <p>7 of these -- extra paper copies of most of 09:04:25</p> <p>8 them, but he's going to be putting them up on 09:04:29</p> <p>9 the Elmo as well, so one way or another you 09:04:31</p> <p>10 guys will be able to see them. 09:04:34</p> <p>11 MR. CHALOS: And before we get 09:04:36</p> <p>12 into this, I just wanted to make one 09:04:37</p> <p>13 statement for the record before I 09:04:39</p> <p>14 forget. 09:04:40</p> <p>15 We last night received about -- 09:04:41</p> <p>16 sometime after 9 p.m. local time a 09:04:44</p> <p>17 batch of documents from Mallinckrodt 09:04:46</p> <p>18 related to Mr. Wessler. I believe 09:04:50</p> <p>19 they came from his custodial file, and 09:04:52</p> <p>20 I think there are somewhere north of 09:04:54</p> <p>21 90 of those, 90 or 92 documents. We 09:04:56</p> <p>22 haven't had a chance to review those 09:05:03</p> <p>23 and analyze those documents. 09:05:04</p> <p>24 And I asked the Ropes &amp; Gray 09:05:05</p> <p>25 team to bring with them paper copies, 09:05:07</p>	<p>1 Do you see that? It starts on 09:05:55</p> <p>2 page number 4 of Exhibit Number 1 on the very 09:05:57</p> <p>3 bottom there, Request for Production 09:06:01</p> <p>4 Number 1. 09:06:02</p> <p>5 A. Oh, okay. 09:06:03</p> <p>6 Q. And then it spills over the 09:06:03</p> <p>7 next page where there's Request for 09:06:06</p> <p>8 Productions Number 2 and 3. 09:06:08</p> <p>9 Do you have any documents in 09:06:13</p> <p>10 your possession that fit with the 09:06:17</p> <p>11 descriptions in either Request for Production 09:06:19</p> <p>12 1, 2 or 3? 09:06:21</p> <p>13 A. Yes. 09:06:22</p> <p>14 Q. Okay. Have you produced those 09:06:23</p> <p>15 to counsel for Mallinckrodt? 09:06:26</p> <p>16 A. Yes. 09:06:29</p> <p>17 Q. Okay. What did you have in 09:06:29</p> <p>18 your possession? 09:06:30</p> <p>19 A. Consistent with Request for 09:06:32</p> <p>20 Production Number 1, a résumé. 09:06:37</p> <p>21 Q. Okay. 09:06:39</p> <p>22 A. So that was -- that was 09:06:39</p> <p>23 provided. 09:06:41</p> <p>24 And then I had a binder related 09:06:41</p> <p>25 to the product launch of Xartemis and a 09:06:49</p>
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<p>1 which they did -- and thank you very 09:05:08</p> <p>2 much for doing that, Mr. Davison -- 09:05:10</p> <p>3 but I want to make clear for the 09:05:11</p> <p>4 record that we haven't really had a 09:05:13</p> <p>5 chance to do anything meaningful with 09:05:14</p> <p>6 those documents. 09:05:16</p> <p>7 So we'll reserve whatever 09:05:16</p> <p>8 rights we have with respect to this 09:05:18</p> <p>9 deposition and those documents, and 09:05:20</p> <p>10 we're not waiving any rights we might 09:05:22</p> <p>11 have by going forward today, so... 09:05:26</p> <p>12 MR. DAVISON: And understood 09:05:27</p> <p>13 we're not waiving our rights to object 09:05:27</p> <p>14 either. 09:05:29</p> <p>15 QUESTIONS BY MR. CHALOS: 09:05:30</p> <p>16 Q. Okay. So Exhibit Number 1, the 09:05:30</p> <p>17 deposition notice for today, Mr. Wessler, 09:05:34</p> <p>18 have you had a chance to review that 09:05:37</p> <p>19 document? 09:05:39</p> <p>20 A. Yes. 09:05:39</p> <p>21 Q. Have you seen it before today? 09:05:40</p> <p>22 A. Yes. 09:05:41</p> <p>23 Q. If you look at Schedule A of 09:05:42</p> <p>24 the deposition notice, there lists three 09:05:49</p> <p>25 requests for production of documents. 09:05:53</p>	<p>1 couple of additional PowerPoint presentations 09:06:54</p> <p>2 I think that were draft presentations for 09:06:58</p> <p>3 Exalgo or Xartemis. I can't recall off the 09:07:04</p> <p>4 top of my head. 09:07:09</p> <p>5 Q. Okay. Did you have any other 09:07:09</p> <p>6 documents in your possession that fit within 09:07:12</p> <p>7 any of the categories in Exhibit 1? 09:07:14</p> <p>8 A. No. 09:07:16</p> <p>9 Q. You produced those to counsel 09:07:17</p> <p>10 for Mallinckrodt? 09:07:19</p> <p>11 A. I did. 09:07:20</p> <p>12 Q. When was that? 09:07:20</p> <p>13 A. Early December. 09:07:22</p> <p>14 MR. CHALOS: Do you know, have 09:07:30</p> <p>15 we gotten those? 09:07:32</p> <p>16 MR. DAVISON: You should have 09:07:33</p> <p>17 received -- the résumé we received 09:07:33</p> <p>18 later, and I think we just produced 09:07:34</p> <p>19 the résumé last week, but the other 09:07:36</p> <p>20 documents produced were, I believe, in 09:07:37</p> <p>21 December, but you definitely have 09:07:39</p> <p>22 them. 09:07:41</p> <p>23 MR. CHALOS: Okay. Okay. I 09:07:42</p> <p>24 don't remember seeing the résumé, but 09:07:43</p> <p>25 that may have been in that batch that 09:07:43</p>

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<p>1 came before last night, but -- 09:07:45</p> <p>2 MR. DAVISON: I think it was 09:07:46</p> <p>3 earlier, maybe earlier this week or 09:07:46</p> <p>4 late last week. I'm not completely 09:07:48</p> <p>5 certain. 09:07:50</p> <p>6 MR. CHALOS: Got it. Okay. 09:07:50</p> <p>7 QUESTIONS BY MR. CHALOS: 09:07:52</p> <p>8 Q. So as you sit here today, there 09:07:52</p> <p>9 are no documents in your possession that fit 09:07:54</p> <p>10 within the categories in Exhibit 1 that you 09:07:57</p> <p>11 have not produced to counsel for 09:08:01</p> <p>12 Mallinckrodt; is that correct? 09:08:02</p> <p>13 A. Correct. 09:08:03</p> <p>14 (Mallinckrodt-Wessler Exhibit 2 09:08:05</p> <p>15 marked for identification.) 09:08:06</p> <p>16 QUESTIONS BY MR. CHALOS: 09:08:06</p> <p>17 Q. Okay. Let's mark as 09:08:06</p> <p>18 Exhibit 2... 09:08:11</p> <p>19 A. Can I return this, or what do 09:08:20</p> <p>20 I -- 09:08:21</p> <p>21 Q. Oh, right. Good point. Yeah, 09:08:21</p> <p>22 if you could just leave it to the side -- 09:08:23</p> <p>23 A. Okay. 09:08:23</p> <p>24 Q. -- somewhere. There's about an 09:08:25</p> <p>25 80 percent chance that I'm going to take that 09:08:26</p>	<p>1 contained in Exhibit 2 is accurate? 09:10:02</p> <p>2 A. Yes. 09:10:03</p> <p>3 Q. Did you input this information 09:10:03</p> <p>4 into the LinkedIn system? 09:10:05</p> <p>5 A. I did. 09:10:06</p> <p>6 Q. Okay. Let's go back for just 09:10:07</p> <p>7 one second to the résumé that you produced to 09:10:12</p> <p>8 your counsel and to Mallinckrodt's counsel. 09:10:14</p> <p>9 Is the information contained 09:10:15</p> <p>10 within that résumé accurate? 09:10:17</p> <p>11 A. It is. 09:10:18</p> <p>12 Q. Okay. And is it -- 09:10:19</p> <p>13 A. To my knowledge, yeah. 09:10:20</p> <p>14 Q. Okay. And is it complete in 09:10:21</p> <p>15 terms of your work history and educational 09:10:24</p> <p>16 history? 09:10:26</p> <p>17 A. My résumé? 09:10:26</p> <p>18 Q. Yes, sir. 09:10:27</p> <p>19 A. I believe so. I might have 09:10:28</p> <p>20 truncated it to a more germane experience, so 09:10:31</p> <p>21 I'm not sure how far back, off the top of my 09:10:34</p> <p>22 head, the résumé goes. 09:10:36</p> <p>23 Q. Okay. Let's talk now about 09:10:37</p> <p>24 Exhibit 2, your LinkedIn entry. And it has 09:10:40</p> <p>25 you listed here as currently being the 09:10:47</p>
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<p>1 and stash it in some of my papers and walk 09:08:28</p> <p>2 out of here with it. I know I'm not supposed 09:08:31</p> <p>3 to. 09:08:33</p> <p>4 A. Oh, okay. 09:08:34</p> <p>5 Q. Yeah. But, yeah, you can just 09:08:35</p> <p>6 put them to the side, and if it gets to be 09:08:36</p> <p>7 too disorganized, let us know, and we can 09:08:37</p> <p>8 maybe put them on a chair or something. 09:08:41</p> <p>9 A. Okay. 09:08:41</p> <p>10 Q. I tend not to go back to refer 09:08:42</p> <p>11 to earlier exhibits, but then again, 09:08:43</p> <p>12 sometimes I do. 09:08:45</p> <p>13 Exhibit 2 is a printout from 09:08:46</p> <p>14 LinkedIn that we printed a week or so ago. 09:08:50</p> <p>15 Let me hand that to you -- 09:08:54</p> <p>16 A. Okay. 09:08:54</p> <p>17 Q. -- and we've got some copies of 09:08:55</p> <p>18 this as well. 09:08:56</p> <p>19 And if you could take a look 09:08:57</p> <p>20 through that. My first question to you will 09:09:03</p> <p>21 be is the information contained in Exhibit 2 09:09:05</p> <p>22 accurate. So you can just take a minute to 09:09:07</p> <p>23 look at that. 09:09:12</p> <p>24 A. Yes. 09:09:13</p> <p>25 Q. Okay. So the information 09:10:00</p>	<p>1 director of marketing for North America for 09:10:50</p> <p>2 Curium Pharma. 09:10:53</p> <p>3 Is that your current job? 09:10:55</p> <p>4 A. Correct. 09:10:56</p> <p>5 Q. What do you do with them? 09:10:57</p> <p>6 A. I'm responsible for helping to 09:10:58</p> <p>7 develop a strategy to launch a new asset. 09:11:03</p> <p>8 Q. Okay. What is the new asset? 09:11:06</p> <p>9 I mean, is it public information, or is it 09:11:08</p> <p>10 secret? 09:11:11</p> <p>11 A. It is public information. It's 09:11:11</p> <p>12 copper 64 Dotatate. 09:11:15</p> <p>13 Q. What is that? 09:11:15</p> <p>14 A. It's a diagnostic agent. 09:11:16</p> <p>15 Q. Does Curium Pharmacy -- 09:11:18</p> <p>16 sorry -- Curium Pharma produce any opioids? 09:11:25</p> <p>17 A. Not to my knowledge. 09:11:28</p> <p>18 Q. Okay. Do you in your current 09:11:30</p> <p>19 job have anything to do with opioids? 09:11:32</p> <p>20 A. No. 09:11:33</p> <p>21 Q. In the introduction to your -- 09:11:33</p> <p>22 I guess that's an introduction -- the first 09:11:38</p> <p>23 section of your LinkedIn entry in Exhibit 2, 09:11:40</p> <p>24 the second paragraph there it says, "Achieved 09:11:46</p> <p>25 130 percent of the financial forecast of 09:11:50</p>



<p style="text-align: right;">Page 18</p> <p>1 Exalgo with only nine months of preparation, 09:11:53</p> <p>2 and ensured significant sales force 09:11:56</p> <p>3 engagement through a robust communication and 09:12:00</p> <p>4 incentive plan amidst another product 09:12:03</p> <p>5 launch." 09:12:08</p> <p>6 Do you see that? 09:12:08</p> <p>7 A. Yes. 09:12:08</p> <p>8 Q. Okay. And that's referring to 09:12:09</p> <p>9 your time at Mallinckrodt? 09:12:10</p> <p>10 A. Correct. 09:12:11</p> <p>11 Q. Okay. And what was your role 09:12:11</p> <p>12 with respect to Exalgo at Mallinckrodt? 09:12:16</p> <p>13 A. I helped develop the messaging 09:12:20</p> <p>14 for the product and the sales collateral, 09:12:25</p> <p>15 meaning the material that the sales force 09:12:28</p> <p>16 used in their promotional efforts. 09:12:30</p> <p>17 Q. Was the messaging that you 09:12:32</p> <p>18 helped develop limited to just the messaging 09:12:37</p> <p>19 that the sales force would deliver or was the 09:12:39</p> <p>20 messaging more broad than that? 09:12:42</p> <p>21 MR. DAVISON: Objection. 09:12:43</p> <p>22 THE WITNESS: It was the 09:12:44</p> <p>23 messaging that the sales force 09:12:47</p> <p>24 delivered, but we used that same 09:12:48</p> <p>25 messaging in nonpersonal tactics as 09:12:52</p>	<p style="text-align: right;">Page 20</p> <p>1 THE WITNESS: I'm not sure I 09:13:56</p> <p>2 understand the question. 09:13:59</p> <p>3 QUESTIONS BY MR. CHALOS: 09:13:59</p> <p>4 Q. Okay. You know, let's put that 09:14:00</p> <p>5 to the side. When we get to your experience 09:14:03</p> <p>6 at Mallinckrodt, maybe we'll dig into that a 09:14:05</p> <p>7 little bit more. 09:14:08</p> <p>8 A. Okay. 09:14:09</p> <p>9 Q. Back to Exhibit Number 2, you 09:14:09</p> <p>10 said that you "ensured significant sales 09:14:12</p> <p>11 force engagement through a robust 09:14:14</p> <p>12 communication and incentive plan amidst 09:14:16</p> <p>13 another product launch." Let's break that 09:14:20</p> <p>14 down a little bit. 09:14:24</p> <p>15 What was your role with respect 09:14:24</p> <p>16 to the sales force engagement? 09:14:26</p> <p>17 A. We communicated with them 09:14:28</p> <p>18 regularly, and we presented and helped to 09:14:33</p> <p>19 train them at the sales force launch meeting. 09:14:36</p> <p>20 Q. Who is "we," when you say "we"? 09:14:39</p> <p>21 A. The marketing department. 09:14:44</p> <p>22 Q. Okay. And what was your role 09:14:45</p> <p>23 with respect to the sales force incentive 09:14:46</p> <p>24 plan? 09:14:49</p> <p>25 A. I was aware of it and -- but 09:14:50</p>
<p style="text-align: right;">Page 19</p> <p>1 well. 09:12:55</p> <p>2 QUESTIONS BY MR. CHALOS: 09:12:55</p> <p>3 Q. Okay. What does that mean 09:12:55</p> <p>4 "nonpersonal tactics"? 09:12:57</p> <p>5 A. So like e-mail blasts, digital 09:12:58</p> <p>6 advertising, that type of thing. 09:13:01</p> <p>7 Q. And who was the target audience 09:13:03</p> <p>8 of the nonpersonal tactics? 09:13:09</p> <p>9 A. Physicians pretty consistent 09:13:11</p> <p>10 with the ones that we targeted through our 09:13:14</p> <p>11 sales force. 09:13:16</p> <p>12 Q. Was the same messaging that you 09:13:16</p> <p>13 developed for Exalgo also used for 09:13:21</p> <p>14 pharmacies? 09:13:27</p> <p>15 A. There might be a few different 09:13:28</p> <p>16 messages, but for the most part the messaging 09:13:34</p> <p>17 was consistent. 09:13:38</p> <p>18 Q. So what I'm getting at is the 09:13:39</p> <p>19 messaging that you helped deliver -- or 09:13:42</p> <p>20 helped develop for Exalgo, was this the 09:13:44</p> <p>21 totality of the messaging for Exalgo, however 09:13:47</p> <p>22 it was used, or was there a separate group 09:13:50</p> <p>23 that developed, for example, the messaging 09:13:52</p> <p>24 for pharmacies? 09:13:55</p> <p>25 MR. DAVISON: Objection. 09:13:55</p>	<p style="text-align: right;">Page 21</p> <p>1 that was -- I mean, it was a team, people 09:14:55</p> <p>2 that had awareness of the sales incentive 09:14:58</p> <p>3 plan, but that was really driven by sales 09:15:00</p> <p>4 operations in terms of the framework of the 09:15:02</p> <p>5 plan. 09:15:05</p> <p>6 Q. So your role with respect to 09:15:06</p> <p>7 the incentive plan was just to be aware of 09:15:08</p> <p>8 it? 09:15:11</p> <p>9 MR. DAVISON: Objection. 09:15:11</p> <p>10 THE WITNESS: Yeah, I was aware 09:15:12</p> <p>11 of it. 09:15:13</p> <p>12 QUESTIONS BY MR. CHALOS: 09:15:13</p> <p>13 Q. Did you have any role in 09:15:14</p> <p>14 crafting the incentive plan for sales 09:15:15</p> <p>15 representatives? 09:15:18</p> <p>16 A. Not really. 09:15:18</p> <p>17 Q. You go on to say here in 09:15:18</p> <p>18 Exhibit 2 that "Also increased revenue more 09:15:23</p> <p>19 than \$20 million for Exalgo through the 09:15:26</p> <p>20 development and execution of a molecule 09:15:29</p> <p>21 matching strategy." 09:15:33</p> <p>22 What is that? 09:15:35</p> <p>23 A. It's a strategy that we 09:15:36</p> <p>24 developed to, I guess -- what's the best way 09:15:38</p> <p>25 to frame this? It was really to identify -- 09:15:48</p>

<p style="text-align: right;">Page 22</p> <p>1 or work with physicians to help them perhaps 09:15:53</p> <p>2 identify patients appropriate for Exalgo. 09:15:55</p> <p>3 So hydromorphone, which is what 09:15:59</p> <p>4 Exalgo is, is the active metabolite of 09:16:03</p> <p>5 hydrocodone. So patients that fit the opioid 09:16:06</p> <p>6 tolerant definition, that had previously been 09:16:10</p> <p>7 exposed to hydrocodone, that had satisfactory 09:16:15</p> <p>8 results, meaning they didn't experience a lot 09:16:18</p> <p>9 of untoward effects, we felt that they might 09:16:21</p> <p>10 be appropriate candidates because of the fact 09:16:23</p> <p>11 they had been exposed to hydromorphone 09:16:26</p> <p>12 previously through their exposure to 09:16:30</p> <p>13 hydrocodone. 09:16:32</p> <p>14 Q. Okay. And you go on to say 09:16:32</p> <p>15 here that you "drove widespread adoption 09:16:34</p> <p>16 through a robust KOL," key opinion leader, 09:16:38</p> <p>17 "satellite broadcast of the scientific 09:16:42</p> <p>18 messaging to more than 1,000 physician 09:16:45</p> <p>19 attendees." 09:16:49</p> <p>20 What does that mean? 09:16:49</p> <p>21 A. We had a tactic where we 09:16:50</p> <p>22 broadcast a -- our marketing messaging to 09:16:54</p> <p>23 over a thousand physician attendees, and that 09:16:59</p> <p>24 was a peer-to-peer tactic that we worked with 09:17:02</p> <p>25 our medical affairs team on where, you know, 09:17:04</p>	<p style="text-align: right;">Page 24</p> <p>1 prescriptions for Mallinckrodt product? 09:18:25</p> <p>2 MR. DAVISON: Objection. 09:18:27</p> <p>3 THE WITNESS: Is that -- I'm 09:18:28</p> <p>4 sorry, is that a question? 09:18:32</p> <p>5 QUESTIONS BY MR. CHALOS: 09:18:33</p> <p>6 Q. Oh, yes, that is a question. 09:18:33</p> <p>7 Yes. 09:18:35</p> <p>8 A. Okay. Can you -- can you 09:18:35</p> <p>9 repeat the question? 09:18:36</p> <p>10 Q. Sure, yes. 09:18:37</p> <p>11 And from time to time, 09:18:38</p> <p>12 Mr. Davison or someone else may make an 09:18:39</p> <p>13 objection. 09:18:42</p> <p>14 A. Yes. 09:18:42</p> <p>15 Q. And unless they tell you not to 09:18:42</p> <p>16 answer, you can go ahead and answer the 09:18:44</p> <p>17 question and pay no mind to -- 09:18:46</p> <p>18 A. Understand. 09:18:48</p> <p>19 Q. -- the lawyers' back and forth. 09:18:50</p> <p>20 So the question was: The 09:18:52</p> <p>21 intention of using key opinion leaders was to 09:18:53</p> <p>22 increase the number of prescriptions of 09:18:55</p> <p>23 Mallinckrodt products where appropriate? 09:18:58</p> <p>24 MR. DAVISON: Same objection. 09:19:00</p> <p>25 THE WITNESS: The intention of 09:19:01</p>
<p style="text-align: right;">Page 23</p> <p>1 physicians talked about the appropriate 09:17:08</p> <p>2 patients for Exalgo, the benefits and risks, 09:17:12</p> <p>3 and that was broadcast to a thousand or more 09:17:16</p> <p>4 physicians -- or more additional physicians. 09:17:19</p> <p>5 Q. Was that a one-time event? 09:17:21</p> <p>6 A. I can't recall. I believe we 09:17:23</p> <p>7 did it twice. 09:17:28</p> <p>8 Q. What's a key opinion leader? 09:17:28</p> <p>9 A. A key opinion leader is a 09:17:34</p> <p>10 physician that is -- has a good reputation in 09:17:36</p> <p>11 the community, and they are usually 09:17:42</p> <p>12 well-published and perhaps in an academic 09:17:47</p> <p>13 center. 09:17:50</p> <p>14 Q. What is the purpose of using a 09:17:51</p> <p>15 key opinion leader in marketing? 09:17:57</p> <p>16 MR. DAVISON: Objection. 09:17:59</p> <p>17 THE WITNESS: I can say that we 09:17:59</p> <p>18 felt like they were -- they added 09:18:04</p> <p>19 credibility. It's just like any sort 09:18:07</p> <p>20 of tactic where you get an expert; you 09:18:11</p> <p>21 would get an expert to speak on a 09:18:16</p> <p>22 topic. 09:18:17</p> <p>23 QUESTIONS BY MR. CHALOS: 09:18:18</p> <p>24 Q. The intention of using key 09:18:20</p> <p>25 opinion leaders was to increase the number of 09:18:21</p>	<p style="text-align: right;">Page 25</p> <p>1 using a key opinion leader is to 09:19:03</p> <p>2 appropriately educate physicians on 09:19:05</p> <p>3 the risks and benefits of the product 09:19:07</p> <p>4 so that they can make the decision on, 09:19:10</p> <p>5 you know, the appropriate patients. 09:19:13</p> <p>6 QUESTIONS BY MR. CHALOS: 09:19:14</p> <p>7 Q. And the hope, from a marketing 09:19:15</p> <p>8 standpoint, is that that information 09:19:18</p> <p>9 encourages an increase in the number of 09:19:19</p> <p>10 Mallinckrodt products -- prescriptions where 09:19:23</p> <p>11 they're appropriate to use; is that fair to 09:19:25</p> <p>12 say? 09:19:27</p> <p>13 A. The intent is to, again, 09:19:27</p> <p>14 appropriately educate physicians on the risks 09:19:29</p> <p>15 and benefits of the product so that they can 09:19:32</p> <p>16 make the decision ultimately on which 09:19:34</p> <p>17 patients they should use the product. 09:19:38</p> <p>18 Q. And when more prescriptions for 09:19:40</p> <p>19 the Mallinckrodt product are written, the 09:19:51</p> <p>20 marketing efforts are considered to be more 09:19:56</p> <p>21 successful? 09:20:00</p> <p>22 MR. DAVISON: Objection. 09:20:00</p> <p>23 THE WITNESS: As long as it's 09:20:00</p> <p>24 for the right patients and the 09:20:02</p> <p>25 appropriate patients. 09:20:03</p>

<p style="text-align: right;">Page 26</p> <p>1 QUESTIONS BY MR. CHALOS: 09:20:05</p> <p>2 Q. Then yes? 09:20:06</p> <p>3 A. Yes. 09:20:07</p> <p>4 Q. Okay. Right. That's what I'm 09:20:08</p> <p>5 driving at. 09:20:13</p> <p>6 So I'm not suggesting that your 09:20:13</p> <p>7 marketing efforts were encouraging 09:20:16</p> <p>8 prescriptions for inappropriate patients. 09:20:18</p> <p>9 What I'm trying to understand is that when 09:20:21</p> <p>10 you undertake from a marketing standpoint 09:20:25</p> <p>11 something like a broadcast of key opinion 09:20:27</p> <p>12 leaders to more than a thousand physicians, 09:20:29</p> <p>13 from a marketing standpoint, the hope is that 09:20:31</p> <p>14 that will, for the appropriate patients, 09:20:34</p> <p>15 drive up the number of prescriptions for that 09:20:38</p> <p>16 product; is that fair to say? 09:20:40</p> <p>17 A. Yes, it's to -- it's to -- 09:20:41</p> <p>18 again, as long as we're clear that it's for 09:20:45</p> <p>19 the appropriate patients and that ultimately, 09:20:48</p> <p>20 you know, it's the physician's decision 09:20:51</p> <p>21 regarding that. 09:20:54</p> <p>22 Q. Then the answer is yes? 09:20:54</p> <p>23 A. Yes. 09:20:58</p> <p>24 Q. Okay. Yeah, sorry, we're 09:20:59</p> <p>25 just -- we are communicating, but you have to 09:21:00</p>	<p style="text-align: right;">Page 28</p> <p>1 QUESTIONS BY MR. CHALOS: 09:21:50</p> <p>2 Q. With the goal of, for the 09:21:54</p> <p>3 appropriate patients, increasing the number 09:21:56</p> <p>4 of Mallinckrodt prescriptions? 09:21:58</p> <p>5 MR. DAVISON: Objection. 09:22:00</p> <p>6 THE WITNESS: Yes. 09:22:01</p> <p>7 QUESTIONS BY MR. CHALOS: 09:22:01</p> <p>8 Q. You list here your jobs, back 09:22:08</p> <p>9 to Exhibit 2, your jobs with Mallinckrodt -- 09:22:11</p> <p>10 well, let me take it more broadly. 09:22:13</p> <p>11 You start in the present, and 09:22:16</p> <p>12 you go back to your time with Jones Pharma, 09:22:18</p> <p>13 Inc., which was February 1996 through 09:22:24</p> <p>14 July 2001. 09:22:27</p> <p>15 Do you see that? 09:22:27</p> <p>16 A. Yes. 09:22:27</p> <p>17 Q. Did you have any other jobs in 09:22:29</p> <p>18 the pharmaceutical industry between 1996 and 09:22:32</p> <p>19 the present that are not listed in Exhibit 2? 09:22:36</p> <p>20 And you can take as much time 09:22:43</p> <p>21 as you need to review that. 09:22:45</p> <p>22 A. No. 09:22:46</p> <p>23 Q. Okay. In what -- well, let me 09:22:55</p> <p>24 just take it company by company. 09:23:01</p> <p>25 For Jones Pharma, did you have 09:23:03</p>
<p style="text-align: right;">Page 27</p> <p>1 sort of verbalize the answer, yes, no, I 09:21:04</p> <p>2 don't know -- 09:21:07</p> <p>3 A. I understand. 09:21:08</p> <p>4 Q. -- and feel free to explain as 09:21:08</p> <p>5 long as you want. But it's not exactly a 09:21:11</p> <p>6 regular conversation. 09:21:13</p> <p>7 A. Understand. 09:21:17</p> <p>8 Q. Okay. So let me see if I can 09:21:17</p> <p>9 do that again so we can clear up the record. 09:21:19</p> <p>10 From a marketing standpoint, 09:21:22</p> <p>11 the purpose of doing and undertaking like 09:21:24</p> <p>12 having key opinion leaders at a satellite 09:21:28</p> <p>13 broadcast to more than a thousand physicians 09:21:31</p> <p>14 is to, for the appropriate patients, increase 09:21:33</p> <p>15 the number of prescriptions for Mallinckrodt 09:21:36</p> <p>16 products? 09:21:38</p> <p>17 MR. DAVISON: Objection to 09:21:38</p> <p>18 form. 09:21:39</p> <p>19 THE WITNESS: It's -- again, 09:21:39</p> <p>20 it's to differentiate our product from 09:21:40</p> <p>21 the competitive products so that we 09:21:43</p> <p>22 can educate physicians on the 09:21:47</p> <p>23 features, benefits and risks of our 09:21:48</p> <p>24 product. 09:21:50</p> <p>25</p>	<p style="text-align: right;">Page 29</p> <p>1 anything to do with opioids there? 09:23:04</p> <p>2 A. No. 09:23:05</p> <p>3 Q. And for Biomedical Systems, did 09:23:06</p> <p>4 you have anything to do with opioids there? 09:23:09</p> <p>5 A. No. 09:23:11</p> <p>6 Q. So your only professional 09:23:12</p> <p>7 experience with opioids was during the time 09:23:13</p> <p>8 that you were at Mallinckrodt? 09:23:15</p> <p>9 A. Yes. 09:23:16</p> <p>10 Q. Okay. And you were there for 09:23:16</p> <p>11 14 years? 09:23:18</p> <p>12 A. Yes. 09:23:19</p> <p>13 Q. The opioid products that you 09:23:19</p> <p>14 were involved with professionally at 09:23:31</p> <p>15 Mallinckrodt, let me list the ones that I 09:23:32</p> <p>16 know of, and tell me if I miss any. 09:23:36</p> <p>17 TussiCaps, Magnacet, Exalgo and 09:23:39</p> <p>18 Xartemis. 09:23:42</p> <p>19 Were there any others that you 09:23:44</p> <p>20 were involved with at Mallinckrodt? We're 09:23:46</p> <p>21 talking about opioids. 09:23:47</p> <p>22 A. No. 09:23:48</p> <p>23 Q. Okay. Let's start with 09:23:50</p> <p>24 Tussi -- no, sorry, Magnacet. 09:24:02</p> <p>25 Magnacet was the first in time; 09:24:04</p>



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<p>1 is that right? 09:24:06</p> <p>2 A. I believe so, yes. 09:24:06</p> <p>3 Q. Okay. Let's start with 09:24:07</p> <p>4 Magnacet here. 09:24:09</p> <p>5 You list in Exhibit 2 on the 09:24:10</p> <p>6 second page under your role as a senior 09:24:12</p> <p>7 product manager, October 2006 to 09:24:16</p> <p>8 November 2009, you said you "led the 09:24:20</p> <p>9 commercial launch of Magnacet and TussiCaps, 09:24:21</p> <p>10 inclusive of prelaunch market development, 09:24:26</p> <p>11 manufacturing and clinical development 09:24:30</p> <p>12 management." 09:24:32</p> <p>13 Do you see that? 09:24:32</p> <p>14 A. Yes. 09:24:33</p> <p>15 Q. And that's true for Magnacet? 09:24:33</p> <p>16 A. That's not true for Magnacet. 09:24:36</p> <p>17 That's more true for TussiCaps. 09:24:38</p> <p>18 Q. Okay. What was your role with 09:24:40</p> <p>19 respect to Magnacet? 09:24:41</p> <p>20 A. I helped to develop the 09:24:43</p> <p>21 marketing message for Magnacet and the sales 09:24:46</p> <p>22 collateral. 09:24:52</p> <p>23 Q. What is sales collateral? 09:24:52</p> <p>24 A. Like a sales aid. 09:24:54</p> <p>25 Q. Does that include like the pens 09:24:57</p>	<p>1 acute pain. That was the indication. 09:25:58</p> <p>2 QUESTIONS BY MR. CHALOS: 09:26:04</p> <p>3 Q. Okay. Is that still on the 09:26:05</p> <p>4 market, Magnacet? 09:26:13</p> <p>5 A. I do not believe so. 09:26:14</p> <p>6 Q. Was it removed from the market 09:26:16</p> <p>7 while you were at Mallinckrodt? 09:26:18</p> <p>8 A. I do not believe so. 09:26:19</p> <p>9 Q. Do you think it's been removed 09:26:20</p> <p>10 since then? 09:26:23</p> <p>11 A. I believe so. 09:26:24</p> <p>12 Q. Do you have any idea when? 09:26:24</p> <p>13 A. No, I do not. 09:26:28</p> <p>14 Q. Do you know why it was removed 09:26:28</p> <p>15 from the market? 09:26:31</p> <p>16 MR. DAVISON: Objection. 09:26:32</p> <p>17 THE WITNESS: I do not. 09:26:32</p> <p>18 QUESTIONS BY MR. CHALOS: 09:26:33</p> <p>19 Q. Okay. For how long a period of 09:26:34</p> <p>20 time did Mallinckrodt actively promote 09:26:35</p> <p>21 Magnacet? 09:26:39</p> <p>22 A. I can't recall. 09:26:40</p> <p>23 Q. Was it promoted during the 09:26:41</p> <p>24 entire time that you were at Mallinckrodt? 09:26:43</p> <p>25 A. No. 09:26:45</p>
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<p>1 and pads and that stuff that you used to be 09:25:00</p> <p>2 able to do? 09:25:02</p> <p>3 A. Yes. Yes. 09:25:03</p> <p>4 Q. Okay. That's called sales 09:25:04</p> <p>5 collateral? 09:25:07</p> <p>6 A. Yeah. 09:25:07</p> <p>7 Q. Okay. I learned a new word at 09:25:08</p> <p>8 the last deposition, too, armamentarium. 09:25:12</p> <p>9 A. Armamentarium? 09:25:15</p> <p>10 Q. Armamentarium. Yeah, there... 09:25:17</p> <p>11 Okay. So you developed the 09:25:19</p> <p>12 messaging and the sales collateral for 09:25:20</p> <p>13 Magnacet? 09:25:23</p> <p>14 A. Yes. 09:25:24</p> <p>15 Q. Okay. Did you do anything else 09:25:24</p> <p>16 with respect to Magnacet? 09:25:26</p> <p>17 A. Not that I can recall. 09:25:27</p> <p>18 Q. Okay. What was Magnacet? 09:25:33</p> <p>19 A. It was an oxycodone- 09:25:34</p> <p>20 acetaminophen combination product. 09:25:37</p> <p>21 Q. For what type of patients was 09:25:40</p> <p>22 Magnacet typically prescribed? Was it acute 09:25:52</p> <p>23 pain or chronic pain or... 09:25:55</p> <p>24 MR. DAVISON: Objection. 09:25:56</p> <p>25 THE WITNESS: I believe it was 09:25:57</p>	<p>1 Q. Okay. So there came a time 09:26:45</p> <p>2 somewhere along the way during your 14 years 09:26:48</p> <p>3 there that Mallinckrodt decided to no longer 09:26:51</p> <p>4 actively promote Magnacet? 09:26:54</p> <p>5 A. Correct. 09:26:56</p> <p>6 Q. Were you involved in that 09:26:57</p> <p>7 addition at all? 09:26:58</p> <p>8 A. No. I believe they sold the 09:26:59</p> <p>9 asset. 09:27:00</p> <p>10 Q. Sold the product? 09:27:02</p> <p>11 A. Yes. 09:27:03</p> <p>12 Q. The drug? Okay. Got it. 09:27:03</p> <p>13 They didn't -- somebody else 09:27:06</p> <p>14 took it over? 09:27:08</p> <p>15 A. That's my understanding. 09:27:09</p> <p>16 Q. Okay. You go on to say here, 09:27:11</p> <p>17 "Within two years of launch, achieved full 09:27:15</p> <p>18 payback on Magnacet through development and 09:27:18</p> <p>19 execution of a strategic promotional 09:27:21</p> <p>20 messaging strategy." 09:27:24</p> <p>21 Do you see that? 09:27:25</p> <p>22 A. Yes. 09:27:25</p> <p>23 Q. What does that mean? 09:27:25</p> <p>24 A. That we were able to fully 09:27:27</p> <p>25 cover the cost of purchasing Magnacet through 09:27:32</p>

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1 the marketing messaging and sales force 09:27:39  
 2 efforts. 09:27:44  
 3 Q. Meaning the sales of Magnacet 09:27:45  
 4 were sufficient to cover with the revenue 09:27:51  
 5 generated by the costs of purchasing the 09:27:55  
 6 Magnacet product? 09:28:00  
 7 A. Correct. 09:28:01  
 8 Q. Okay. Did you, at any time 09:28:02  
 9 while you were at Mallinckrodt, develop a 09:28:06  
 10 method for measuring the return on investment 09:28:09  
 11 for marketing expenditures? 09:28:12  
 12 MR. DAVISON: Objection. 09:28:14  
 13 THE WITNESS: I'm not sure I 09:28:15  
 14 understand the question. Can you 09:28:20  
 15 repeat that? 09:28:22  
 16 QUESTIONS BY MR. CHALOS: 09:28:23  
 17 Q. Sure. 09:28:23  
 18 Did you -- let me ask it maybe 09:28:23  
 19 a different way. 09:28:25  
 20 Did you -- when you were at 09:28:25  
 21 Mallinckrodt, did you ever have any 09:28:26  
 22 experience with assessing the return on 09:28:27  
 23 investment for marketing expenditures? 09:28:30  
 24 MR. DAVISON: Objection. 09:28:32  
 25 THE WITNESS: I'm sure we did. 09:28:33

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1 QUESTIONS BY MR. CHALOS: 09:28:34  
 2 Q. Okay. Did you have any role in 09:28:34  
 3 that? 09:28:36  
 4 A. Generally I did not calculate 09:28:37  
 5 the return on investment. That was handled 09:28:43  
 6 by another group in the organization. 09:28:45  
 7 Usually sales operations. 09:28:48  
 8 Q. Do you know how they calculated 09:28:49  
 9 the return on investment for marketing 09:28:54  
 10 expenditures? 09:28:57  
 11 MR. DAVISON: Objection. 09:28:58  
 12 THE WITNESS: I can't speculate 09:28:59  
 13 on how they did it. 09:29:00  
 14 QUESTIONS BY MR. CHALOS: 09:29:01  
 15 Q. Was that -- was that 09:29:01  
 16 calculation, meaning the return on investment 09:29:06  
 17 for marketing expenditures, was that done for 09:29:08  
 18 all four of the opioid products that you were 09:29:10  
 19 involved with at Mallinckrodt, to your 09:29:13  
 20 knowledge? 09:29:16  
 21 A. Generally -- that's a very 09:29:16  
 22 broad question. 09:29:24  
 23 Can you ask it maybe a 09:29:24  
 24 different way? 09:29:26  
 25 Q. Yeah. 09:29:27

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1 So the return on investment for 09:29:28  
 2 the marketing expenditures for a product, was 09:29:33  
 3 that done for each of the four opioid 09:29:36  
 4 products that you were involved with? 09:29:38  
 5 A. Generally, you do like return 09:29:40  
 6 on investment for a specific marketing 09:29:42  
 7 tactic, not for an overall brand. 09:29:45  
 8 Q. Okay. What do you mean by 09:29:48  
 9 that? 09:29:49  
 10 A. So you had asked earlier about 09:29:49  
 11 the satellite broadcast. 09:29:52  
 12 Q. Uh-huh. 09:29:54  
 13 A. So you would calculate the -- 09:29:55  
 14 sales operations would look at the physicians 09:29:58  
 15 that attended, and they would calculate 09:30:00  
 16 potential return on investment on that 09:30:02  
 17 specific tactic but not on the entirety of 09:30:04  
 18 the brand. 09:30:09  
 19 Q. I see. 09:30:09  
 20 Was that calculation done for 09:30:09  
 21 tactics for all four of the opioids that you 09:30:15  
 22 were involved with at Mallinckrodt? 09:30:19  
 23 A. I can't remember. 09:30:20  
 24 Q. Was there a return on 09:30:21  
 25 investment calculation made for each of the 09:30:24

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1 marketing undertakings while you were at 09:30:29  
 2 Mallinckrodt? 09:30:32  
 3 MR. DAVISON: Objection. 09:30:32  
 4 THE WITNESS: So for every 09:30:33  
 5 marketing tactic, was a return on 09:30:34  
 6 investment calculated? 09:30:38  
 7 QUESTIONS BY MR. CHALOS: 09:30:39  
 8 Q. Yeah, in categorical terms. In 09:30:39  
 9 other words -- well, let me ask you. How was 09:30:41  
 10 it -- let me try it a different way. 09:30:43  
 11 How was it -- when you were at 09:30:45  
 12 Mallinckrodt, how did the company decide 09:30:46  
 13 whether to conduct a return on investment for 09:30:48  
 14 a marketing expenditure? 09:30:51  
 15 MR. DAVISON: Objection. 09:30:52  
 16 THE WITNESS: I think it really 09:30:53  
 17 depended on the feasibility of that 09:30:57  
 18 analysis based on the tactic itself. 09:30:59  
 19 QUESTIONS BY MR. CHALOS: 09:31:02  
 20 Q. Okay. And what do you mean by 09:31:02  
 21 that? 09:31:03  
 22 A. A journal ad, for example, 09:31:03  
 23 might be very, very difficult to calculate 09:31:09  
 24 the return on investment because you don't 09:31:10  
 25 know what specific physicians might have 09:31:12

<p style="text-align: right;">Page 38</p> <p>1 looked at it. So there are certain 09:31:14</p> <p>2 limitations based on the tactic, probably, to 09:31:19</p> <p>3 the ability to calculate that. 09:31:23</p> <p>4 Q. What would be a tactic that 09:31:25</p> <p>5 would be easier to calculate the return on 09:31:26</p> <p>6 investment for? 09:31:31</p> <p>7 A. Sort of a -- like an e-mail 09:31:32</p> <p>8 blast. 09:31:35</p> <p>9 Q. Where you could then measure -- 09:31:37</p> <p>10 you can calculate how much it cost to do the 09:31:44</p> <p>11 e-mail blast, and then you know the doctors 09:31:46</p> <p>12 to whom it went, and then you calculate 09:31:49</p> <p>13 whether they prescribed additional 09:31:50</p> <p>14 Mallinckrodt products after the e-mail blast? 09:31:53</p> <p>15 Is that roughly how it 09:31:54</p> <p>16 happened? 09:31:56</p> <p>17 MR. DAVISON: Objection. 09:31:56</p> <p>18 THE WITNESS: I believe so. 09:31:56</p> <p>19 QUESTIONS BY MR. CHALOS: 09:31:56</p> <p>20 Q. Okay. 09:31:56</p> <p>21 A. But again, I mentioned a lot of 09:31:57</p> <p>22 times the sales operations group actually did 09:31:59</p> <p>23 the analysis. 09:32:02</p> <p>24 (Mallinckrodt-Wessler Exhibit 3 09:32:03</p> <p>25 marked for identification.) 09:32:04</p>	<p style="text-align: right;">Page 40</p> <p>1 center of the page under actual result. It 09:33:34</p> <p>2 says, "He created the database to measure the 09:33:36</p> <p>3 ROI on many of the marketing programs and 09:33:40</p> <p>4 trained the marketing analysts on its use." 09:33:44</p> <p>5 Do you see that? 09:33:47</p> <p>6 A. Yes. 09:33:47</p> <p>7 Q. What is that referring to? 09:33:47</p> <p>8 A. That was referring to my time 09:33:48</p> <p>9 prior to being in marketing, when I was -- I 09:33:55</p> <p>10 can't remember my title at the time. I think 09:33:58</p> <p>11 manager of sales administration. I worked 09:34:01</p> <p>12 with an outside vendor to create a call 09:34:04</p> <p>13 reporting database. 09:34:07</p> <p>14 Q. Call reporting database? 09:34:08</p> <p>15 A. Yes. 09:34:11</p> <p>16 Q. Okay. What was the purpose of 09:34:12</p> <p>17 that? 09:34:13</p> <p>18 A. So that representatives could 09:34:13</p> <p>19 enter into this database calls that they had 09:34:17</p> <p>20 made to physicians so that we could see, you 09:34:21</p> <p>21 know, which physicians the representatives 09:34:25</p> <p>22 were detailing and educating. 09:34:27</p> <p>23 Q. And how did that measure the 09:34:29</p> <p>24 ROI on many of the marketing programs? 09:34:35</p> <p>25 A. We would look at a program that 09:34:39</p>
<p style="text-align: right;">Page 39</p> <p>1 QUESTIONS BY MR. CHALOS: 09:32:04</p> <p>2 Q. Got it. Let's mark this as the 09:32:04</p> <p>3 next exhibit. 09:32:06</p> <p>4 Okay. So we've marked as 09:32:07</p> <p>5 Exhibit 3 a document that has the Bates range 09:32:21</p> <p>6 MNK-T1_0007845224 through 7845241. And it 09:32:24</p> <p>7 says it's a performance management document, 09:32:37</p> <p>8 October 2004. 09:32:42</p> <p>9 This is the "this is your life" 09:32:44</p> <p>10 portion of the deposition. This is your 09:32:48</p> <p>11 performance evaluation to 2004. 09:32:50</p> <p>12 A. Okay. 09:32:52</p> <p>13 Q. And you can read the whole 09:32:52</p> <p>14 thing if you want. I'm going to refer you 09:32:56</p> <p>15 specifically to page 4 of the document, and 09:32:58</p> <p>16 I'm going to ask you about -- there's one 09:33:00</p> <p>17 particular sentence in there I wanted to ask 09:33:03</p> <p>18 you about. It's under actual results, right 09:33:05</p> <p>19 kind of in the middle of the page. 09:33:07</p> <p>20 A. Okay. 09:33:10</p> <p>21 Q. It's one page further along. 09:33:11</p> <p>22 It says 4 at the bottom, but it's Bates 09:33:14</p> <p>23 number MNK-T1_0007845230. 09:33:17</p> <p>24 And the sentence I want to ask 09:33:30</p> <p>25 you about there is the second one in the 09:33:32</p>	<p style="text-align: right;">Page 41</p> <p>1 they did, and if that information was entered 09:34:42</p> <p>2 in the call reporting database, we could 09:34:45</p> <p>3 match that up to prescribing data to see 09:34:47</p> <p>4 potentially what the impact was prior to the 09:34:52</p> <p>5 tactic and post the tactic. 09:34:55</p> <p>6 Q. Was there a database that 09:34:58</p> <p>7 served a similar function in place during the 09:35:07</p> <p>8 entire rest of the time you were at 09:35:11</p> <p>9 Mallinckrodt -- 09:35:12</p> <p>10 MR. DAVISON: Objection. 09:35:13</p> <p>11 QUESTIONS BY MR. CHALOS: 09:35:13</p> <p>12 Q. -- to your knowledge? 09:35:14</p> <p>13 MR. DAVISON: Objection. 09:35:14</p> <p>14 Sorry. 09:35:15</p> <p>15 THE WITNESS: I believe that 09:35:15</p> <p>16 there was a call reporting database, 09:35:16</p> <p>17 but this particular one that I worked 09:35:18</p> <p>18 on was disbanded. 09:35:21</p> <p>19 QUESTIONS BY MR. CHALOS: 09:35:24</p> <p>20 Q. Do you remember when that was? 09:35:28</p> <p>21 A. I honestly do not. 09:35:30</p> <p>22 Q. So the database that's 09:35:31</p> <p>23 referenced on the page 4 of Exhibit 3 is the 09:35:35</p> <p>24 call reporting database? 09:35:39</p> <p>25 A. Correct. 09:35:41</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. Okay. So there's no separate 09:35:42  2 database intended to measure the ROI for 09:35:44  3 marketing programs? 09:35:47  4 MR. DAVISON: Objection. 09:35:49  5 THE WITNESS: Not to my 09:35:49  6 knowledge. 09:35:51  7 QUESTIONS BY MR. CHALOS: 09:35:51  8 Q. Okay. Was the call reporting 09:35:53  9 database used, after they phased out the one 09:35:55  10 you created with the outside vendor, was that 09:36:01  11 used to measure ROI on marketing expenditures 09:36:03  12 as well? 09:36:06  13 MR. DAVISON: Objection. 09:36:06  14 THE WITNESS: I'm sorry, I'm 09:36:06  15 not sure I understand the question. 09:36:08  16 QUESTIONS BY MR. CHALOS: 09:36:09  17 Q. Sure. Okay. 09:36:09  18 So you, I think, said that the 09:36:10  19 database that you created with the outside 09:36:12  20 vendor to record call reports, that was 09:36:13  21 phased out at some point -- 09:36:17  22 A. Correct. 09:36:20  23 Q. -- and replaced -- that was 09:36:20  24 replaced with another database? 09:36:21  25 A. I believe so. 09:36:24</p>	<p style="text-align: right;">Page 44</p> <p>1 marketing tactic? 09:37:32  2 MR. DAVISON: Objection. 09:37:34  3 THE WITNESS: Sometimes -- you 09:37:35  4 know, again, I mentioned that it's 09:37:43  5 difficult at times to measure the 09:37:46  6 success of a marketing tactic, so a 09:37:48  7 lot of times it was really, did we hit 09:37:51  8 the goal or did we not hit the goal 09:37:53  9 for the product. 09:37:56  10 QUESTIONS BY MR. CHALOS: 09:37:56  11 Q. In terms of number of 09:37:57  12 prescriptions? 09:37:58  13 A. Right. 09:37:58  14 Q. Okay. Were there any other 09:37:59  15 metrics used while you were at Mallinckrodt 09:38:02  16 to measure whether a marketing tactic was 09:38:05  17 successful, other than the number of 09:38:09  18 prescriptions written for Mallinckrodt 09:38:11  19 product? 09:38:13  20 A. Yes. 09:38:13  21 MR. DAVISON: Objection. 09:38:13  22 QUESTIONS BY MR. CHALOS: 09:38:14  23 Q. Okay. What other metrics were 09:38:14  24 used? 09:38:16  25 A. It depends on, again, the 09:38:16</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Was that new database used to 09:36:24  2 measure the ROI on marketing expenditures as 09:36:26  3 well? 09:36:29  4 A. Again, this was when I was in a 09:36:29  5 sales operations role, and so I would imagine 09:36:33  6 that, you know, the sales operations folks 09:36:36  7 probably used a similar type of methodology, 09:36:38  8 but I can't really speculate on how they did 09:36:42  9 it. 09:36:44  10 Q. Did you see any ROI 09:36:44  11 calculations for marketing expenditures with 09:36:50  12 respect to Xartemis? 09:36:53  13 A. I believe so, but I can't 09:36:57  14 remember specifically. 09:37:03  15 Q. Okay. And did you see any ROI 09:37:04  16 calculations for marketing expenditures with 09:37:06  17 respect to Exalgo? 09:37:10  18 A. I'm sure I did, but I -- again, 09:37:12  19 I can't remember the specifics. 09:37:14  20 Q. How about for Magnacet? 09:37:15  21 A. I can't recall. 09:37:18  22 Q. Okay. How about TussiCaps? 09:37:19  23 A. I can't recall. 09:37:22  24 Q. When you were at Mallinckrodt, 09:37:23  25 how did the company measure the success of a 09:37:29</p>	<p style="text-align: right;">Page 45</p> <p>1 specific tactic. 09:38:18  2 Q. And what would be an example of 09:38:20  3 another metric? 09:38:21  4 A. Number of views of an e-mail. 09:38:22  5 Number of views of a digital ad. 09:38:27  6 Q. How would Mallinckrodt, while 09:38:30  7 you were there, how would they measure the 09:38:40  8 number of prescriptions written for a 09:38:44  9 Mallinckrodt product? 09:38:46  10 MR. DAVISON: Objection. 09:38:48  11 THE WITNESS: It depends on the 09:38:48  12 product. 09:38:50  13 QUESTIONS BY MR. CHALOS: 09:38:50  14 Q. Okay. What do you mean by 09:38:50  15 that? 09:38:51  16 A. Well, they would usually 09:38:54  17 purchase the data from IMS. 09:38:56  18 Q. And that would tell them the 09:38:59  19 number of prescriptions written for that 09:39:00  20 product at a given time period? 09:39:02  21 A. Correct. 09:39:04  22 Q. In terms of measuring the 09:39:04  23 effectiveness of a marketing tactic while you 09:39:09  24 were at Mallinckrodt, was the primary method 09:39:12  25 for measuring the success the number of 09:39:16</p>



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1 prescriptions written? 09:39:18

2 MR. DAVISON: Objection. 09:39:19

3 THE WITNESS: I don't -- I 09:39:20

4 don't recall if that was the primary 09:39:31

5 objective. It was -- it was part of 09:39:33

6 the analysis. 09:39:35

7 QUESTIONS BY MR. CHALOS: 09:39:35

8 Q. Was the marketing efforts that 09:39:40

9 you were involved with for Magnacet, were 09:39:45

10 they successful in increasing the number of 09:39:49

11 prescriptions for Magnacet? 09:39:53

12 MR. DAVISON: Objection. 09:39:55

13 THE WITNESS: Well, the product 09:39:56

14 was newly launched, so it went from 09:39:58

15 zero to something, but the ultimate 09:40:01

16 market share of that product, I 09:40:03

17 believe, was under 1 percent, so... 09:40:05

18 QUESTIONS BY MR. CHALOS: 09:40:07

19 Q. Meaning of the total market for 09:40:08

20 similar opioids? 09:40:10

21 A. Uh-huh. 09:40:11

22 Q. Is that a yes? 09:40:12

23 A. Yes, I'm sorry. 09:40:13

24 Q. That's fine. You're doing 09:40:14

25 great on that so far. 09:40:15

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1 Magnacet was for acute pain; is 09:40:17

2 that right? 09:40:20

3 A. That's my recollection. 09:40:20

4 Q. So acute pain is not 09:40:22

5 necessarily opioid-tolerant patients; is that 09:40:25

6 right? 09:40:27

7 A. Generally, yes, you are 09:40:27

8 correct, it's not for opioid-tolerant 09:40:29

9 patients. 09:40:33

10 Q. Okay. So put another way, 09:40:33

11 acute pain -- acute pain patients are 09:40:34

12 generally patients who have not had prior 09:40:38

13 exposure to opioids? 09:40:41

14 MR. DAVISON: Objection. 09:40:42

15 THE WITNESS: I can't say 09:40:42

16 generally. They can be. 09:40:43

17 QUESTIONS BY MR. CHALOS: 09:40:45

18 Q. So they may be new to opioids; 09:40:45

19 they may not be? 09:40:47

20 A. Correct. 09:40:48

21 Q. Did Mallinckrodt undertake to 09:40:50

22 measure how many of the patients that were 09:40:52

23 prescribed Magnacet were new to opioids? 09:40:56

24 MR. DAVISON: Objection. 09:40:58

25 THE WITNESS: I cannot recall. 09:40:59

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1 QUESTIONS BY MR. CHALOS: 09:41:00

2 Q. Do you recall with respect to 09:41:04

3 any of the opioid products that you were 09:41:05

4 involved with at Mallinckrodt, whether 09:41:10

5 Mallinckrodt measured what percentage of the 09:41:11

6 patients who received prescriptions for that 09:41:15

7 product were new to opioids? 09:41:16

8 MR. DAVISON: Objection. 09:41:19

9 THE WITNESS: I don't recall. 09:41:20

10 I mean, I -- certainly with Exalgo 09:41:22

11 it's for -- it was for opioid-tolerant 09:41:24

12 patients, so we certainly wouldn't 09:41:28

13 look for patients to have been 09:41:29

14 opioid-naïve. 09:41:32

15 QUESTIONS BY MR. CHALOS: 09:41:33

16 Q. Opioid-naïve is the term for 09:41:33

17 patients who had not had prior exposure to 09:41:35

18 opioids? 09:41:37

19 A. Correct. 09:41:37

20 Q. So for TussiCaps, Magnacet and 09:41:38

21 Xartemis, the patients who received 09:41:44

22 prescriptions for those drugs included 09:41:48

23 opioid-naïve patients? 09:41:50

24 MR. DAVISON: Objection. 09:41:52

25 THE WITNESS: I don't -- I 09:41:52

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1 can't say that. 09:41:53

2 QUESTIONS BY MR. CHALOS: 09:41:54

3 Q. There was nothing -- well, let 09:41:59

4 me rephrase it. 09:42:00

5 The marketing for -- 09:42:00

6 A. And if I could clarify. 09:42:01

7 Q. Yeah, sure. 09:42:02

8 A. I'm sorry. TussiCaps is not 09:42:03

9 indicated for -- was not indicated for pain. 09:42:04

10 So that's a cough and cold product, so that's 09:42:07

11 a different product altogether. It does have 09:42:10

12 an opioid component, the hydrocodone 09:42:13

13 component, but it's not indicated for pain at 09:42:15

14 all. 09:42:18

15 Q. Okay. Was TussiCaps indicated 09:42:18

16 for only opioid-tolerant patients? 09:42:20

17 A. That's kind of taking it out of 09:42:23

18 context. It's indicated for cough and cold, 09:42:25

19 so the FDA didn't render an opinion on 09:42:29

20 whether the patient had to have exposure to 09:42:30

21 an opioid or not. 09:42:32

22 Q. Okay. So among the target -- 09:42:33

23 among the appropriate patients for TussiCaps 09:42:37

24 would be opioid-naïve patients? 09:42:39

25 MR. DAVISON: Objection. 09:42:41



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<p>1 THE WITNESS: It kind of 09:42:42</p> <p>2 doesn't work that way. 09:42:43</p> <p>3 QUESTIONS BY MR. CHALOS: 09:42:44</p> <p>4 Q. Okay. What do you mean? 09:42:44</p> <p>5 A. Again, the FDA didn't make a -- 09:42:45</p> <p>6 doesn't make a statement on whether or not a 09:42:50</p> <p>7 patient has to have prior exposure or not 09:42:52</p> <p>8 because it's not a pain product. It's 09:42:55</p> <p>9 indicated for cough and cold, so functionally 09:42:58</p> <p>10 the indication is only around cough and cold, 09:43:01</p> <p>11 not opioid tolerance or lack thereof. 09:43:03</p> <p>12 Q. So the FDA provided no guidance 09:43:06</p> <p>13 one way or the other on whether it's 09:43:08</p> <p>14 appropriate for patients who are 09:43:10</p> <p>15 opioid-naïve? 09:43:13</p> <p>16 MR. DAVISON: Objection. 09:43:14</p> <p>17 THE WITNESS: They were 09:43:15</p> <p>18 completely silent on that. 09:43:16</p> <p>19 QUESTIONS BY MR. CHALOS: 09:43:17</p> <p>20 Q. What about Mallinckrodt's 09:43:17</p> <p>21 marketing? Did -- for TussiCaps. Did 09:43:18</p> <p>22 Mallinckrodt's marketing for TussiCaps say 09:43:22</p> <p>23 anything one way or another as to whether it 09:43:27</p> <p>24 appropriate only for patients who were 09:43:30</p> <p>25 opioid-tolerant? 09:43:32</p>	<p>1 A. Yes. 09:44:38</p> <p>2 Q. What are you referencing there? 09:44:38</p> <p>3 A. It was a campaign that we 09:44:40</p> <p>4 launched to speak to the safety components of 09:44:44</p> <p>5 taking cough and cold medications. 09:44:52</p> <p>6 Q. Okay. Was TussiCaps a new 09:44:55</p> <p>7 product? 09:44:57</p> <p>8 A. It was. 09:44:57</p> <p>9 Q. And it was a bioequivalent of 09:44:58</p> <p>10 an existing product; is that right? 09:45:00</p> <p>11 A. It was. 09:45:01</p> <p>12 Q. What was the existing product? 09:45:01</p> <p>13 A. I believe it was Tussionex. 09:45:03</p> <p>14 Q. Okay. Was that a Mallinckrodt 09:45:05</p> <p>15 product? 09:45:07</p> <p>16 A. It was not. 09:45:07</p> <p>17 Q. What does it mean to be a 09:45:08</p> <p>18 bioequivalent? 09:45:13</p> <p>19 MR. DAVISON: Objection. 09:45:16</p> <p>20 THE WITNESS: I can't really 09:45:17</p> <p>21 speak to that. That's outside my area 09:45:20</p> <p>22 of expertise. 09:45:22</p> <p>23 QUESTIONS BY MR. CHALOS: 09:45:22</p> <p>24 Q. Okay. Was there -- okay. 09:45:23</p> <p>25 So here you said "accelerated 09:45:26</p>
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<p>1 A. No, the marketing materials 09:43:32</p> <p>2 were consistent with the package insert. 09:43:34</p> <p>3 Q. Okay. So the marketing 09:43:36</p> <p>4 materials were silent as to whether it should 09:43:37</p> <p>5 be limited only to opioid-tolerant patients? 09:43:38</p> <p>6 MR. DAVISON: Objection. 09:43:41</p> <p>7 THE WITNESS: Consistent with 09:43:41</p> <p>8 the PI. 09:43:42</p> <p>9 QUESTIONS BY MR. CHALOS: 09:43:43</p> <p>10 Q. Okay. So let me try that 09:43:43</p> <p>11 again. 09:43:48</p> <p>12 The marketing materials for 09:43:48</p> <p>13 TussiCaps, did they say anything one way or 09:43:50</p> <p>14 another as to whether TussiCaps was 09:43:53</p> <p>15 appropriate for opioid-naïve patients? 09:43:56</p> <p>16 MR. DAVISON: Objection. 09:43:59</p> <p>17 THE WITNESS: Did not. 09:43:59</p> <p>18 QUESTIONS BY MR. CHALOS: 09:44:00</p> <p>19 Q. Okay. Back to Exhibit 09:44:12</p> <p>20 Number 2, your LinkedIn under the senior 09:44:14</p> <p>21 product manager section on page 2. The last 09:44:18</p> <p>22 sentence, "Accelerated TussiCaps uptake 09:44:29</p> <p>23 through development and execution of an 09:44:32</p> <p>24 award-winning prelaunch marketing campaign." 09:44:34</p> <p>25 Do you see that? 09:44:37</p>	<p>1 TussiCaps uptake." What does that mean? 09:45:28</p> <p>2 A. We -- the prescription volume 09:45:30</p> <p>3 went up. 09:45:36</p> <p>4 Q. TussiCaps was -- you said it's 09:45:38</p> <p>5 a cough and cold medicine? 09:45:45</p> <p>6 A. Correct. 09:45:46</p> <p>7 Q. Was there an indication for 09:45:47</p> <p>8 children as well? 09:45:49</p> <p>9 A. I believe so. 09:45:50</p> <p>10 Q. Do you remember what age 09:45:52</p> <p>11 children were included in the indication for 09:45:54</p> <p>12 TussiCaps? 09:45:57</p> <p>13 A. I do not. 09:45:58</p> <p>14 Q. Is TussiCaps still on the 09:45:59</p> <p>15 market? 09:46:06</p> <p>16 A. I don't know. Again, I believe 09:46:06</p> <p>17 Mallinckrodt sold that asset. 09:46:10</p> <p>18 Q. Do you recall when that was? 09:46:12</p> <p>19 A. I do not. 09:46:13</p> <p>20 Q. Okay. Let's move up here, and 09:46:14</p> <p>21 we're still on Exhibit 2. The position is 09:46:20</p> <p>22 product director, November 2009 to June 2015. 09:46:23</p> <p>23 Do you see that? 09:46:28</p> <p>24 A. Yes. 09:46:28</p> <p>25 Q. You said, "I led 09:46:28</p>

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<p>1 commercialization, launched strategy and 09:46:31</p> <p>2 lifecycle management for Xartemis and Exalgo 09:46:33</p> <p>3 tablets." 09:46:38</p> <p>4 Do you see that? 09:46:39</p> <p>5 A. Yes. 09:46:40</p> <p>6 Q. Okay. What does the 09:46:40</p> <p>7 commercialization mean? 09:46:41</p> <p>8 A. It's principally the marketing 09:46:42</p> <p>9 messaging and collateral development. 09:46:44</p> <p>10 Q. What's the launch strategy? 09:46:46</p> <p>11 A. It's sort of the marketing 09:46:53</p> <p>12 plan, the tactics that we would undertake. 09:46:56</p> <p>13 Q. Okay. And lifecycle 09:46:59</p> <p>14 management, what does that mean? 09:47:03</p> <p>15 A. Working with medical affairs 09:47:04</p> <p>16 and a large group of cohorts to understand if 09:47:10</p> <p>17 there are opportunities to work with the FDA 09:47:14</p> <p>18 on additional indications or anything like 09:47:16</p> <p>19 that. 09:47:18</p> <p>20 Q. Okay. And if you go to the 09:47:19</p> <p>21 next paragraph it says, the second sentence, 09:47:22</p> <p>22 "Generated more than \$250 million in total 09:47:25</p> <p>23 revenue from the approval of a product 09:47:28</p> <p>24 extension." 09:47:32</p> <p>25 What does that mean? 09:47:33</p>	<p>1 optimized the physician sampling strategy to 09:48:55</p> <p>2 accelerate ROI." 09:49:00</p> <p>3 Do you see that? 09:49:02</p> <p>4 A. Yes. 09:49:02</p> <p>5 Q. ROI is return on investment? 09:49:03</p> <p>6 A. Yes. 09:49:05</p> <p>7 Q. Okay. What does that mean, 09:49:05</p> <p>8 "optimize the physician sampling strategy to 09:49:06</p> <p>9 accelerate ROI"? 09:49:09</p> <p>10 A. I honestly can't remember. I 09:49:11</p> <p>11 believe that we did an evaluation or an 09:49:15</p> <p>12 analysis of the sampling program. 09:49:17</p> <p>13 Q. What is the sampling program? 09:49:22</p> <p>14 MR. DAVISON: Objection. 09:49:24</p> <p>15 THE WITNESS: It was physician 09:49:24</p> <p>16 sampling, so, you know, providing 09:49:27</p> <p>17 samples of product. 09:49:30</p> <p>18 QUESTIONS BY MR. CHALOS: 09:49:32</p> <p>19 Q. Oh, I see. Providing samples 09:49:34</p> <p>20 of the product to physicians for use with 09:49:36</p> <p>21 patients? 09:49:38</p> <p>22 A. Correct. 09:49:38</p> <p>23 Q. Okay. It's not a sampling of 09:49:39</p> <p>24 physicians? 09:49:41</p> <p>25 A. Correct. 09:49:41</p>
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<p>1 A. That's approval of a 09:47:34</p> <p>2 32-milligram strength of Exalgo. 09:47:36</p> <p>3 Q. And how was that \$250 million 09:47:40</p> <p>4 measured? That's the total revenue from 09:47:47</p> <p>5 sales of the 32-milligram dosage of Exalgo? 09:47:49</p> <p>6 MR. DAVISON: Objection. 09:47:53</p> <p>7 THE WITNESS: I believe so. 09:47:53</p> <p>8 QUESTIONS BY MR. CHALOS: 09:47:54</p> <p>9 Q. You go on to say, "I was a 09:48:01</p> <p>10 key contributor in the development of the 09:48:03</p> <p>11 commercial framework for the submission to 09:48:05</p> <p>12 petition FDA for approval." 09:48:09</p> <p>13 What does that mean? 09:48:10</p> <p>14 A. It was looking at the marketing 09:48:12</p> <p>15 landscape, I believe. I can't remember 09:48:18</p> <p>16 specifically the -- all the components. 09:48:20</p> <p>17 Q. If you move down here in this 09:48:26</p> <p>18 same Exhibit 2, product manager, November 09:48:32</p> <p>19 2005 to October 2006. 09:48:36</p> <p>20 Do you see that? 09:48:38</p> <p>21 A. Yes. 09:48:38</p> <p>22 Q. Second sentence there, 09:48:38</p> <p>23 "Exceeded net sales and prescription demand 09:48:42</p> <p>24 budgets for Restoril 7.5 milligrams, 09:48:45</p> <p>25 22.5 milligrams, and tofranil PM, and 09:48:50</p>	<p>1 Q. Got it. Okay. 09:49:41</p> <p>2 What was your -- let's take 09:49:51</p> <p>3 your last position as product director with 09:49:55</p> <p>4 Mallinckrodt. 09:49:58</p> <p>5 Did you have any role in 09:49:59</p> <p>6 setting the marketing budget? 09:50:00</p> <p>7 A. I proposed a marketing budget, 09:50:02</p> <p>8 but ultimately I wasn't the decision-maker. 09:50:07</p> <p>9 Q. Who made the decision about -- 09:50:10</p> <p>10 who ultimately approved the marketing budget 09:50:13</p> <p>11 when you were in the role as product 09:50:15</p> <p>12 director? 09:50:17</p> <p>13 A. Generally it was the general 09:50:17</p> <p>14 manager or president of the business unit. 09:50:20</p> <p>15 Q. Were you the person who 09:50:24</p> <p>16 gathered the information and prepared the 09:50:28</p> <p>17 budget for approval? 09:50:30</p> <p>18 A. Oftentimes. 09:50:31</p> <p>19 Q. Was that true with respect to 09:50:33</p> <p>20 Xartemis and Exalgo? 09:50:38</p> <p>21 MR. DAVISON: Objection. 09:50:41</p> <p>22 THE WITNESS: I believe so. 09:50:42</p> <p>23 QUESTIONS BY MR. CHALOS: 09:50:43</p> <p>24 Q. With respect to Xartemis and 09:50:48</p> <p>25 Exalgo -- well, scratch that. Let me start 09:50:51</p>

<p style="text-align: right;">Page 58</p> <p>1 again. 09:50:54</p> <p>2 With respect to the marketing 09:50:54</p> <p>3 budgets that you were responsible for 09:50:55</p> <p>4 preparing, how did you measure whether those 09:51:00</p> <p>5 expenditures were successful on an ongoing 09:51:03</p> <p>6 basis? 09:51:08</p> <p>7 MR. DAVISON: Objection. 09:51:08</p> <p>8 QUESTIONS BY MR. CHALOS: 09:51:09</p> <p>9 Q. Do you follow what I'm saying? 09:51:10</p> <p>10 A. I would say consistent with 09:51:12</p> <p>11 what you asked before, sometimes we would 09:51:16</p> <p>12 work with sales operations to determine if 09:51:19</p> <p>13 there was an ROI on the marketing tactic, but 09:51:23</p> <p>14 that wasn't always the case. It really 09:51:26</p> <p>15 depended on the viability of an ROI analysis. 09:51:28</p> <p>16 Q. So where you could do -- where 09:51:32</p> <p>17 the company could do an ROI analysis, did it 09:51:35</p> <p>18 typically do an ROI analysis for marketing 09:51:37</p> <p>19 expenditures? 09:51:39</p> <p>20 MR. DAVISON: Objection. 09:51:40</p> <p>21 THE WITNESS: Sometimes. 09:51:40</p> <p>22 QUESTIONS BY MR. CHALOS: 09:51:41</p> <p>23 Q. Were there times where it could 09:51:41</p> <p>24 do an ROI -- like it was feasible to do an 09:51:44</p> <p>25 ROI calculation for marketing expenditure but 09:51:47</p>	<p style="text-align: right;">Page 60</p> <p>1 circumstance. Sometimes it would be 09:52:51</p> <p>2 PowerPoint or sometimes it would be Excel. 09:52:52</p> <p>3 It really depended. 09:52:55</p> <p>4 Q. Who would you typically present 09:52:56</p> <p>5 that to? 09:52:58</p> <p>6 A. It probably varied, but it 09:52:59</p> <p>7 would be marketing folks and perhaps, you 09:53:03</p> <p>8 know, the general manager. 09:53:07</p> <p>9 Q. Was there any sort of regular 09:53:09</p> <p>10 interval where you had to present an ROI for 09:53:16</p> <p>11 the marketing budget in terms of quarterly 09:53:19</p> <p>12 or, you know, annually or something like 09:53:22</p> <p>13 that? 09:53:24</p> <p>14 A. Not that I can recall. 09:53:24</p> <p>15 Q. When you presented your 09:53:26</p> <p>16 marketing budgets for approval at 09:53:27</p> <p>17 Mallinckrodt, the ones that you prepared, did 09:53:30</p> <p>18 you have to make a presentation on the -- on 09:53:34</p> <p>19 the budget itself to somebody? 09:53:38</p> <p>20 A. Generally. 09:53:40</p> <p>21 Q. Who would you typically make 09:53:41</p> <p>22 that to? Was it your boss? 09:53:43</p> <p>23 A. Yes. 09:53:45</p> <p>24 Q. As part of that, did you ever 09:53:45</p> <p>25 present ROIs from prior years' budgets? 09:53:48</p>
<p style="text-align: right;">Page 59</p> <p>1 the company chose not to do it? 09:51:50</p> <p>2 MR. DAVISON: Objection. 09:51:52</p> <p>3 THE WITNESS: I can't -- I 09:51:52</p> <p>4 don't remember. 09:51:53</p> <p>5 QUESTIONS BY MR. CHALOS: 09:51:53</p> <p>6 Q. When there was an ROI analysis 09:52:03</p> <p>7 done of a marketing expenditure, how would 09:52:04</p> <p>8 that be presented? In other words, was there 09:52:07</p> <p>9 a form that was used, or was it a PowerPoint? 09:52:09</p> <p>10 MR. DAVISON: Objection. 09:52:14</p> <p>11 THE WITNESS: It really 09:52:14</p> <p>12 probably depended on the time and on 09:52:15</p> <p>13 the tactic. 09:52:18</p> <p>14 QUESTIONS BY MR. CHALOS: 09:52:18</p> <p>15 Q. Okay. What do you mean by 09:52:19</p> <p>16 that? 09:52:20</p> <p>17 A. There wasn't a specific 09:52:20</p> <p>18 formulaic approach to how it was presented. 09:52:25</p> <p>19 Q. Did you yourself ever do an ROI 09:52:27</p> <p>20 calculation for a marketing tactic while you 09:52:35</p> <p>21 were at Mallinckrodt? 09:52:37</p> <p>22 A. I'm sure I did. 09:52:38</p> <p>23 Q. Do you recall how you presented 09:52:39</p> <p>24 those findings? 09:52:46</p> <p>25 A. It would again depend on the 09:52:47</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I can't recall if that was 09:53:51</p> <p>2 specifically included. 09:53:54</p> <p>3 Q. Did you have marketing training 09:53:54</p> <p>4 or -- I'm sorry, marketing education when you 09:54:07</p> <p>5 were in college? 09:54:10</p> <p>6 A. No. 09:54:11</p> <p>7 Q. How did you get into marketing? 09:54:11</p> <p>8 MR. DAVISON: Objection. 09:54:13</p> <p>9 THE WITNESS: Essentially 09:54:14</p> <p>10 through my marketing manager role, 09:54:18</p> <p>11 which was more of a business 09:54:20</p> <p>12 development role. 09:54:21</p> <p>13 QUESTIONS BY MR. CHALOS: 09:54:22</p> <p>14 Q. Okay. And this is -- you're 09:54:23</p> <p>15 talking about the time at Mallinckrodt from 09:54:24</p> <p>16 July 2004 through November 2005? 09:54:27</p> <p>17 A. Yes. 09:54:29</p> <p>18 Q. Okay. What do you mean when 09:54:30</p> <p>19 you say it was more of a business development 09:54:32</p> <p>20 role? 09:54:34</p> <p>21 A. That role was looking at 09:54:35</p> <p>22 licensing opportunities, so that marketing 09:54:38</p> <p>23 manager role was really more of a business 09:54:43</p> <p>24 development role. 09:54:44</p> <p>25 Q. Okay. So how did you learn how 09:54:45</p>

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<p>1 to do marketing? 09:54:48</p> <p>2 MR. DAVISON: Objection. 09:54:51</p> <p>3 THE WITNESS: Most of it was on 09:54:52</p> <p>4 the job. 09:54:54</p> <p>5 QUESTIONS BY MR. CHALOS: 09:54:54</p> <p>6 Q. Have you ever had any formal 09:54:56</p> <p>7 education on marketing? 09:54:57</p> <p>8 A. I believe I went to a training 09:54:58</p> <p>9 class. 09:55:02</p> <p>10 Q. With -- while you were at 09:55:02</p> <p>11 Mallinckrodt? 09:55:07</p> <p>12 A. Correct. 09:55:07</p> <p>13 Q. Okay. When was that? 09:55:08</p> <p>14 A. I can't recall. 09:55:09</p> <p>15 Q. Was it just one class? 09:55:10</p> <p>16 A. It was a couple of days. 09:55:12</p> <p>17 Q. Who put that on? 09:55:15</p> <p>18 A. I believe it was Rosenblatt and 09:55:18</p> <p>19 Clouber. 09:55:22</p> <p>20 Q. What is that? 09:55:22</p> <p>21 A. It's a marketing firm. 09:55:23</p> <p>22 Q. Here in St. Louis? 09:55:25</p> <p>23 A. No. 09:55:29</p> <p>24 Q. Where was that? 09:55:30</p> <p>25 A. I don't remember. 09:55:31</p>	<p>1 QUESTIONS BY MR. CHALOS: 09:56:24</p> <p>2 Q. One of the goals of marketing 09:56:35</p> <p>3 is to sell products, would you agree with 09:56:37</p> <p>4 that? 09:56:39</p> <p>5 MR. DAVISON: Objection. 09:56:41</p> <p>6 THE WITNESS: I would say the 09:56:41</p> <p>7 goal of marketing is to differentiate 09:56:44</p> <p>8 your product from the competition. 09:56:46</p> <p>9 QUESTIONS BY MR. CHALOS: 09:56:48</p> <p>10 Q. Is one of the goals of 09:56:54</p> <p>11 marketing to sell products? 09:56:55</p> <p>12 MR. DAVISON: Objection. 09:56:58</p> <p>13 THE WITNESS: I would say it 09:56:58</p> <p>14 depends on the circumstances and 09:56:59</p> <p>15 depends on... 09:57:00</p> <p>16 QUESTIONS BY MR. CHALOS: 09:57:04</p> <p>17 Q. Are there any circumstances in 09:57:04</p> <p>18 which one of the goals of marketing is to 09:57:06</p> <p>19 sell products? 09:57:08</p> <p>20 MR. DAVISON: Objection. 09:57:09</p> <p>21 THE WITNESS: That's really 09:57:10</p> <p>22 speculative. 09:57:11</p> <p>23 QUESTIONS BY MR. CHALOS: 09:57:18</p> <p>24 Q. Can you think of any 09:57:19</p> <p>25 circumstances where the goal of marketing is 09:57:20</p>
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<p>1 Q. Was that while you were in the 09:55:32</p> <p>2 marketing manager role, do you think? 09:55:40</p> <p>3 A. I can't recall. Either that or 09:55:43</p> <p>4 probably the product manager role. 09:55:45</p> <p>5 Q. Okay. So sometime between '04 09:55:46</p> <p>6 and '06? 09:55:49</p> <p>7 A. That's my recollection. 09:55:50</p> <p>8 Q. Okay. And that was -- other 09:55:50</p> <p>9 than that few days' class with Rosenblatt and 09:55:51</p> <p>10 Clouber, did you have any other formal 09:55:56</p> <p>11 education in marketing? 09:55:57</p> <p>12 A. Not that I can recall. 09:55:58</p> <p>13 Q. What is the definition of 09:56:00</p> <p>14 "marketing" in your mind? 09:56:03</p> <p>15 MR. DAVISON: Objection. 09:56:04</p> <p>16 THE WITNESS: That's a really 09:56:04</p> <p>17 broad question. 09:56:06</p> <p>18 QUESTIONS BY MR. CHALOS: 09:56:07</p> <p>19 Q. Yes, I agree with that. 09:56:10</p> <p>20 Do you have a working 09:56:11</p> <p>21 definition of "marketing" in your mind? 09:56:12</p> <p>22 MR. DAVISON: Objection. 09:56:14</p> <p>23 THE WITNESS: Not that I can 09:56:15</p> <p>24 probably articulate. 09:56:22</p> <p>25</p>	<p>1 to sell products? 09:57:22</p> <p>2 A. Again, that's really 09:57:25</p> <p>3 speculative. 09:57:28</p> <p>4 Q. You can't think of any 09:57:29</p> <p>5 circumstances where the goal of marketing 09:57:33</p> <p>6 would be to sell products? 09:57:34</p> <p>7 A. Generally, marketing isn't 09:57:37</p> <p>8 responsible for the sales of the product. 09:57:40</p> <p>9 Q. What is marketing responsible 09:57:43</p> <p>10 for? 09:57:44</p> <p>11 MR. DAVISON: Objection. 09:57:45</p> <p>12 THE WITNESS: Developing the 09:57:46</p> <p>13 marketing material and the 09:57:48</p> <p>14 communication material. 09:57:49</p> <p>15 QUESTIONS BY MR. CHALOS: 09:57:50</p> <p>16 Q. Is one of the purposes of 09:58:10</p> <p>17 marketing to create goodwill for a company? 09:58:12</p> <p>18 MR. DAVISON: Objection. 09:58:17</p> <p>19 THE WITNESS: I think, you 09:58:18</p> <p>20 know, ultimately that -- I don't know 09:58:23</p> <p>21 if that -- that falls into marketing 09:58:24</p> <p>22 or not. Depends on the organization. 09:58:26</p> <p>23 QUESTIONS BY MR. CHALOS: 09:58:31</p> <p>24 Q. Was one of the purposes of the 09:58:31</p> <p>25 marketing efforts that you undertook at 09:58:33</p>



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1	Mallinckrodt to create goodwill for the 09:58:35	1	THE WITNESS: So that 10:00:44
2	company? 09:58:37	2	physicians can make an appropriate 10:00:45
3	MR. DAVISON: Objection. 09:58:40	3	decision for viable candidates for the 10:00:48
4	THE WITNESS: I don't believe 09:58:40	4	specific therapy. 10:00:51
5	that was a specific goal. I think 09:58:44	5	QUESTIONS BY MR. CHALOS: 10:00:53
6	there were probably other -- there 09:58:47	6	Q. And the decisions that 10:00:54
7	were probably other functional areas 09:58:50	7	physicians make about a company's product are 10:00:57
8	in the organization that were 09:58:56	8	influenced at least in part by the 10:01:02
9	responsible for that. 09:58:56	9	information that the pharmaceutical company 10:01:04
10	QUESTIONS BY MR. CHALOS: 09:58:57	10	provides through its marketing? 10:01:05
11	Q. Like what? 09:58:59	11	MR. DAVISON: Objection. 10:01:07
12	A. Probably advocacy and 09:59:00	12	THE WITNESS: I can't speculate 10:01:07
13	communications. 09:59:09	13	on how physicians make decisions. 10:01:08
14	Q. So what did you believe was the 09:59:09	14	QUESTIONS BY MR. CHALOS: 10:01:10
15	goal of marketing while you were the product 09:59:16	15	Q. Well, one of the intentions 10:01:10
16	director at Mallinckrodt? 09:59:22	16	of -- one of the goals of marketing is to 10:01:13
17	MR. DAVISON: Objection. 09:59:24	17	give information to physicians, right? 10:01:14
18	THE WITNESS: To develop 09:59:24	18	A. Correct. 10:01:15
19	product, to develop marketing 09:59:27	19	Q. And one of the goals of 10:01:16
20	messages, to differentiate our product 09:59:30	20	marketing is that physicians use that 10:01:21
21	from competitors. 09:59:33	21	information, at least in part, to make 10:01:24
22	QUESTIONS BY MR. CHALOS: 09:59:34	22	decisions about whether to prescribe the 10:01:26
23	Q. Was that true for the entire 09:59:38	23	company's products? 10:01:28
24	time you were at Mallinckrodt? 09:59:40	24	MR. DAVISON: Objection. 10:01:29
25	A. Yes. 09:59:41	25	THE WITNESS: Probably. 10:01:30
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1	Q. Do you agree that a company 09:59:42	1	QUESTIONS BY MR. CHALOS: 10:01:31
2	engaged in pharmaceutical marketing must 09:59:58	2	Q. Why do you say "probably"? 10:01:33
3	never put patients at risk by putting profits 10:00:00	3	That's not one of the goals of marketing? 10:01:35
4	over patient safety when marketing a product? 10:00:03	4	A. No, I don't know how -- and I 10:01:36
5	MR. DAVISON: Objection. 10:00:06	5	can't speculate on how physicians make 10:01:39
6	THE WITNESS: I'm sorry, can 10:00:07	6	decisions. 10:01:41
7	you repeat that? 10:00:08	7	Q. Yeah, right. I'm not asking 10:01:41
8	QUESTIONS BY MR. CHALOS: 10:00:08	8	whether they do. 10:01:43
9	Q. Sure. 10:00:09	9	What I'm asking is, one of the 10:01:43
10	Do you agree that a 10:00:09	10	goals from the marketing standpoint of 10:01:45
11	pharmaceutical company, when engaged in 10:00:10	11	providing information to physicians is that 10:01:47
12	marketing, must never put patients at risk by 10:00:13	12	the physicians would then use that 10:01:48
13	putting profits over patient safety? 10:00:16	13	information to help decide whether to use the 10:01:50
14	MR. DAVISON: Objection. 10:00:18	14	company's products? 10:01:53
15	THE WITNESS: I believe that 10:00:19	15	MR. DAVISON: Objection. 10:01:53
16	pharmaceutical companies should engage 10:00:23	16	THE WITNESS: Correct. 10:01:54
17	in truthful -- truthful promotion of 10:00:25	17	QUESTIONS BY MR. CHALOS: 10:01:54
18	their product, but ultimately it's the 10:00:28	18	Q. And in that context, the -- it 10:01:55
19	physician's decision to ascertain the 10:00:31	19	is very important that the information that 10:01:59
20	appropriate patient for the product. 10:00:34	20	comes through marketing to the physician from 10:02:01
21	QUESTIONS BY MR. CHALOS: 10:00:36	21	the pharmaceutical company is accurate, 10:02:04
22	Q. Why is it important that 10:00:37	22	right? 10:02:06
23	pharmaceutical companies should engage in 10:00:39	23	MR. DAVISON: Objection. 10:02:06
24	truthful promotion of their product? 10:00:41	24	THE WITNESS: And consistent 10:02:06
25	MR. DAVISON: Objection. 10:00:43	25	with the label. 10:02:07



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<p>1 QUESTIONS BY MR. CHALOS: 10:02:07</p> <p>2 Q. Okay. So, yes, accurate and 10:02:07</p> <p>3 also consistent with the label? 10:02:10</p> <p>4 A. Yes. 10:02:11</p> <p>5 Q. Okay. From a marketing 10:02:12</p> <p>6 standpoint, do you agree that pharmaceutical 10:02:18</p> <p>7 companies have a heightened responsibility to 10:02:21</p> <p>8 provide truthful information to the users of 10:02:25</p> <p>9 its products? 10:02:28</p> <p>10 MR. DAVISON: Objection. 10:02:28</p> <p>11 THE WITNESS: I don't know what 10:02:29</p> <p>12 constitutes heightened responsibility. 10:02:29</p> <p>13 They have a responsibility. 10:02:31</p> <p>14 QUESTIONS BY MR. CHALOS: 10:02:33</p> <p>15 Q. If you need a break at any 10:02:41</p> <p>16 time, let me know. 10:02:43</p> <p>17 MR. DAVISON: We've been going 10:02:44</p> <p>18 about an hour, so if, you know, you 10:02:46</p> <p>19 come to a good spot. 10:02:48</p> <p>20 MR. CHALOS: Yeah, let me get 10:02:50</p> <p>21 to a good spot. I'll get there pretty 10:02:51</p> <p>22 soon, we'll take a break. But if you 10:02:54</p> <p>23 need to force a break at any time, let 10:02:54</p> <p>24 us know. 10:02:57</p> <p>25 THE WITNESS: Okay. 10:02:57</p>	<p>1 VIDEOGRAPHER: We are back on 10:08:31</p> <p>2 the record at 10:13 a m. 10:13:24</p> <p>3 (Mallinckrodt-Wessler Exhibit 4 10:13:26</p> <p>4 marked for identification.) 10:13:27</p> <p>5 QUESTIONS BY MR. CHALOS: 10:13:27</p> <p>6 Q. Let's mark as the next numbered 10:13:27</p> <p>7 exhibit, Exhibit 4, a document that starts 10:13:30</p> <p>8 with MNK-T1_0000000264 through 287. And 10:13:32</p> <p>9 this, I'll represent to you, is an 10:13:49</p> <p>10 organizational chart that was produced to us 10:13:50</p> <p>11 in this litigation. It was previously marked 10:13:54</p> <p>12 as Exhibit 2 to Mr. Wickline's deposition on 10:13:57</p> <p>13 November 13th of 2018. For some reason it 10:14:01</p> <p>14 says 2015 on the sticker. 10:14:11</p> <p>15 A. Is that a -- well, that might 10:14:13</p> <p>16 be a weird 8. 10:14:15</p> <p>17 Q. Is it? Okay. It could be. 10:14:18</p> <p>18 Anyway, so that's Exhibit 10:14:23</p> <p>19 Number 4. I'm really going to ask you about 10:14:30</p> <p>20 the first page here, where on the side it 10:14:32</p> <p>21 says -- it's dated 4/1 of '13. You can take 10:14:33</p> <p>22 a look through the whole document, but my 10:14:39</p> <p>23 question is going to be limited to the first 10:14:41</p> <p>24 page. 10:14:44</p> <p>25 Do you see your name there sort 10:14:44</p>
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<p>1 QUESTIONS BY MR. CHALOS: 10:02:57</p> <p>2 Q. While you were at Mallinckrodt, 10:02:58</p> <p>3 was the marketing messaging the same 10:02:59</p> <p>4 nationwide? 10:03:02</p> <p>5 A. Yes, meaning -- can I clarify 10:03:04</p> <p>6 that? 10:03:06</p> <p>7 Q. Absolutely, please do. 10:03:07</p> <p>8 A. So meaning did we use the same 10:03:09</p> <p>9 marketing message regardless of state or 10:03:12</p> <p>10 geography? 10:03:14</p> <p>11 Q. Yes, sir. 10:03:16</p> <p>12 A. Yes, that's my understanding 10:03:16</p> <p>13 and recollection. 10:03:17</p> <p>14 Q. Okay. So the marketing 10:03:17</p> <p>15 messaging that was used, let's say, in Ohio 10:03:19</p> <p>16 was the same as the messaging used in 10:03:21</p> <p>17 California, for example? 10:03:23</p> <p>18 A. Yes. 10:03:24</p> <p>19 MR. CHALOS: Okay. This is 10:03:25</p> <p>20 probably a good spot to take a break 10:03:26</p> <p>21 then. 10:03:27</p> <p>22 THE WITNESS: Okay. 10:03:28</p> <p>23 VIDEOGRAPHER: We are going off 10:03:30</p> <p>24 the record at 10:03 a m. 10:03:35</p> <p>25 (Off the record at 10:03 a m.) 10:03:37</p>	<p>1 of middle -- if you turn it landscape, 10:14:46</p> <p>2 middle, lower middle, kind of? 10:14:49</p> <p>3 A. Yes. 10:14:51</p> <p>4 Q. And it's got you on this 10:14:51</p> <p>5 diagram reporting directly to the vice 10:14:54</p> <p>6 president of marketing, who at this time was 10:14:56</p> <p>7 Terry Terifay. 10:14:59</p> <p>8 Do you see that? 10:15:01</p> <p>9 A. Yes. 10:15:01</p> <p>10 Q. Okay. Is that the -- this was 10:15:02</p> <p>11 in your position as product director; is that 10:15:05</p> <p>12 right? 10:15:07</p> <p>13 A. Yes, but I was a product 10:15:07</p> <p>14 director, I believe, before this particular 10:15:12</p> <p>15 organizational structure as well. 10:15:15</p> <p>16 Q. Okay. Was there -- in your 10:15:17</p> <p>17 role as product director, did you always 10:15:22</p> <p>18 report to a vice president of marketing? 10:15:24</p> <p>19 A. No. 10:15:26</p> <p>20 Q. Who else did you report to? 10:15:27</p> <p>21 A. Senior director of marketing. 10:15:29</p> <p>22 Q. Okay. Is that -- who was that? 10:15:32</p> <p>23 A. Rod Novak. 10:15:34</p> <p>24 Q. So as a product director, 10:15:37</p> <p>25 there's a time where you reported to the 10:15:39</p>

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1 senior director of marketing? 10:15:42

2 A. Yes. 10:15:43

3 Q. Okay. When was that? 10:15:44

4 A. I think it was around the 2009 10:15:45

5 time frame, but I can't remember 10:15:51

6 specifically. 10:15:52

7 Q. Okay. And at some point then 10:15:52

8 you were -- your direct reporting chain was 10:15:55

9 changed to where you reported directly to the 10:15:58

10 vice president of marketing? 10:16:00

11 A. That's correct. 10:16:01

12 Q. And you think it was around 10:16:01

13 that time, 2009, 2010? 10:16:02

14 A. I think it was when Terry came 10:16:04

15 on board, so I can't recall that -- 10:16:07

16 Q. Okay. 10:16:11

17 A. -- date. 10:16:13

18 Q. Okay. It has November 14th of 10:16:14

19 2011, listed under Terry Terifay, vice 10:16:18

20 president of marketing. 10:16:22

21 Do you see that? 10:16:23

22 A. Yes. 10:16:23

23 Q. Do you think -- is that -- is 10:16:23

24 that consistent with your memory, that he 10:16:27

25 came on board sometime in 2011? 10:16:28

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1 A. Around there. That's 10:16:30

2 consistent with what I remember. 10:16:31

3 Q. Okay. In your role as senior 10:16:32

4 product manager, to whom did you report? 10:16:36

5 Both name and position, if you remember. 10:16:41

6 A. I believe there was a time I 10:16:43

7 reported to a product director, Geoffrey 10:16:48

8 Arbuckle, early on, and then I believe Rod 10:16:54

9 Novak. 10:16:56

10 Q. Is Mr. Novak still with 10:16:57

11 Mallinckrodt? 10:17:00

12 A. I do not believe so. 10:17:00

13 MR. DAVISON: Objection. 10:17:02

14 QUESTIONS BY MR. CHALOS: 10:17:02

15 Q. Okay. Do you keep up with 10:17:03

16 anyone at Mallinckrodt presently? 10:17:04

17 A. I do. 10:17:06

18 Q. Who do you keep up with over 10:17:08

19 there? 10:17:10

20 A. Rod. I do talk to Rod. Mike 10:17:10

21 Patterson. And those are probably the two 10:17:16

22 people I talk to. 10:17:21

23 Q. Okay. Mr. Patterson still with 10:17:22

24 the company? 10:17:24

25 A. No. 10:17:24

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1 Q. Okay. Do you keep up with 10:17:25

2 anyone who's still with Mallinckrodt? 10:17:26

3 A. Not really. 10:17:27

4 Q. Okay. Are you like Facebook 10:17:29

5 friends or something? 10:17:32

6 A. I'm not on Facebook. 10:17:33

7 Q. Oh, good for you. Good. It's 10:17:34

8 just a waste of time, I think, anyway. 10:17:36

9 Where is Mr. Patterson now? 10:17:38

10 A. Curium. 10:17:47

11 Q. Is that the company you're 10:17:47

12 with? 10:17:49

13 A. Correct. 10:17:49

14 Q. How about Mr. Novak? 10:17:50

15 A. I believe he's with a company 10:17:53

16 called GeneriCo. 10:17:55

17 Q. What do they do? 10:17:57

18 A. I -- I mean, they -- they, I 10:17:59

19 think, have generic pharmaceutical products, 10:18:00

20 but I don't know much beyond that 10:18:03

21 specifically. 10:18:04

22 Q. You know, there's one other 10:18:05

23 page I'd like to ask you about, the second to 10:18:13

24 last page where it's got your direct reports. 10:18:14

25 MR. DAVISON: You're looking at 10:18:24

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1 286 Bates number? 10:18:26

2 MR. CHALOS: Yes, Bates number 10:18:27

3 286, yes, sir. Thanks. 10:18:29

4 THE WITNESS: Okay. 10:18:32

5 QUESTIONS BY MR. CHALOS: 10:18:32

6 Q. Okay. It says -- it's got you 10:18:33

7 listed as the director of pharma product, and 10:18:35

8 then it has two direct reports to you: 10:18:38

9 Melissa Falcone and Jennifer Lierman. 10:18:40

10 Do you see that? 10:18:43

11 A. Yes. 10:18:43

12 Q. Okay. Was there a time where 10:18:44

13 Melissa Falcone no longer reported to you? 10:18:45

14 A. Yes. 10:18:49

15 Q. Okay. Did she get promoted? 10:18:50

16 A. Yes. 10:18:51

17 Q. To what job did she get 10:18:52

18 promoted? 10:18:54

19 A. She was the special assistant 10:18:54

20 to like the VP of commercial operations or 10:18:59

21 something like that. 10:19:02

22 Q. Okay. Do you know where she is 10:19:03

23 now? Is she still with Mallinckrodt? 10:19:04

24 A. I believe so. 10:19:06

25 Q. Do you keep up with her? 10:19:07

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<p>1 A. No, not really. 10:19:10</p> <p>2 Q. You left the company in 2015; 10:19:11</p> <p>3 is that right? 10:19:19</p> <p>4 A. Correct. 10:19:19</p> <p>5 Q. Okay. Why did you leave? 10:19:20</p> <p>6 A. I was severed. 10:19:21</p> <p>7 Q. What does that mean? 10:19:23</p> <p>8 A. The company no longer needed my 10:19:23</p> <p>9 services. 10:19:25</p> <p>10 Q. Why? Do you know? 10:19:29</p> <p>11 MR. DAVISON: Objection. 10:19:30</p> <p>12 THE WITNESS: I think they 10:19:30</p> <p>13 phased out an entire business unit of 10:19:31</p> <p>14 which I was a part of. 10:19:35</p> <p>15 QUESTIONS BY MR. CHALOS: 10:19:36</p> <p>16 Q. At which business unit was 10:19:36</p> <p>17 that? 10:19:37</p> <p>18 A. The business unit that was 10:19:38</p> <p>19 promoting Xartemis XR. 10:19:40</p> <p>20 Q. Did that correspond with the 10:19:43</p> <p>21 time where the company was -- decided to no 10:19:47</p> <p>22 longer promote Xartemis? 10:19:50</p> <p>23 MR. DAVISON: Objection. 10:19:53</p> <p>24 THE WITNESS: That's my 10:19:54</p> <p>25 understanding. 10:19:54</p>	<p>1 It's Exhibit Number 5. 10:21:33</p> <p>2 And you can look through that 10:21:41</p> <p>3 as much as you need to. I can tell you the 10:21:42</p> <p>4 questions I'm going to have are going to 10:21:46</p> <p>5 be -- probably start with page 3 of 14 about 10:21:49</p> <p>6 your salary and bonus. 10:21:53</p> <p>7 Are you ready? 10:22:00</p> <p>8 A. Sure. 10:22:49</p> <p>9 Q. Okay. So if you look at 10:22:50</p> <p>10 Exhibit 5, page 3, which it ends in Bates 10:22:53</p> <p>11 5176, it says -- looking at 2 A, salary 10:22:58</p> <p>12 continuation payment. 10:23:10</p> <p>13 So it says there that the 10:23:12</p> <p>14 agreement was they'll pay you [REDACTED] weeks of 10:23:15</p> <p>15 salary, weekly gross of [REDACTED]. 10:23:17</p> <p>16 Do you see that? 10:23:21</p> <p>17 MR. DAVISON: Objection. 10:23:22</p> <p>18 THE WITNESS: I do. 10:23:23</p> <p>19 QUESTIONS BY MR. CHALOS: 10:23:23</p> <p>20 Q. Did I get that wrong? 10:23:24</p> <p>21 MR. DAVISON: I think it's 10:23:25</p> <p>22 biweekly. 10:23:27</p> <p>23 MR. CHALOS: Oh, right. You 10:23:27</p> <p>24 got to read the line before that. 10:23:28</p> <p>25</p>
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<p>1 QUESTIONS BY MR. CHALOS: 10:19:54</p> <p>2 Q. How much notice were you given 10:19:56</p> <p>3 that you were being severed? 10:19:57</p> <p>4 A. I don't -- I don't believe any. 10:19:59</p> <p>5 I think the -- we found out on a phone call 10:20:04</p> <p>6 on a Friday or a Monday, and they gave us -- 10:20:07</p> <p>7 or they gave me -- I should speak 10:20:11</p> <p>8 specifically about myself -- they gave me 10:20:16</p> <p>9 like a couple of weeks. 10:20:17</p> <p>10 So, I mean, in terms of notice, 10:20:19</p> <p>11 I got notified I had a couple of weeks to 10:20:20</p> <p>12 finish up any projects, and that was it. 10:20:25</p> <p>13 Q. You ultimately negotiated a 10:20:28</p> <p>14 severance with the company; is that right? 10:20:35</p> <p>15 A. I did receive a severance. 10:20:37</p> <p>16 Q. Okay. Well, was it six months' 10:20:39</p> <p>17 pay? Is that right? 10:20:42</p> <p>18 A. I believe so. 10:20:42</p> <p>19 (Mallinckrodt-Wessler Exhibit 5 10:20:43</p> <p>20 marked for identification.) 10:20:43</p> <p>21 QUESTIONS BY MR. CHALOS: 10:20:43</p> <p>22 Q. Okay. Let's mark as the next 10:20:44</p> <p>23 numbered exhibit the severance agreement. 10:20:46</p> <p>24 So let's mark as Exhibit 10:20:51</p> <p>25 Number 5 MNK-T1_0007845172 through 5199. 10:21:22</p>	<p>1 QUESTIONS BY MR. CHALOS: 10:23:31</p> <p>2 Q. Okay. I mean, I was trying to 10:23:31</p> <p>3 get you a little more money out of the deal. 10:23:34</p> <p>4 A. Where were you years of ago? 10:23:38</p> <p>5 Q. Okay. So there -- they agreed 10:23:40</p> <p>6 to pay you basically [REDACTED] salary; is 10:23:42</p> <p>7 that right? 10:23:45</p> <p>8 A. [REDACTED], yes. 10:23:45</p> <p>9 Q. Yeah. Okay. 10:23:47</p> <p>10 And then you also were eligible 10:23:48</p> <p>11 to receive your incentive bonus gross of 10:23:50</p> <p>12 [REDACTED]. That's in paragraph B. 10:23:55</p> <p>13 Do you see that? 10:23:59</p> <p>14 A. Yes. 10:24:00</p> <p>15 Q. Did you receive that bonus? 10:24:00</p> <p>16 A. I did. 10:24:01</p> <p>17 Q. Okay. Did you ever receive any 10:24:02</p> <p>18 stock options from Mallinckrodt? 10:24:04</p> <p>19 A. [REDACTED] 10:24:06</p> <p>20 Q. [REDACTED] 10:24:07</p> <p>21 [REDACTED] 10:24:09</p> <p>22 A. [REDACTED] 10:24:10</p> <p>23 Q. Do you hold any stock currently 10:24:10</p> <p>24 in Mallinckrodt? 10:24:12</p> <p>25 A. Not that I'm aware of. I mean, 10:24:12</p>

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1 it might be through a -- you know, like a -- 10:24:15

2 what is that called? 10:24:23

3 Q. A mutual fund? 10:24:24

4 A. Yes. Yes. But not 10:24:24

5 specifically. 10:24:26

6 Q. [REDACTED] 10:24:26

7 [REDACTED] 10:24:28

8 A. [REDACTED] 10:24:28

9 Q. [REDACTED] 10:24:29

10 [REDACTED] 10:24:31

11 A. [REDACTED] 10:24:31

12 Q. [REDACTED] 10:24:32

13 [REDACTED] 10:24:35

14 [REDACTED] 10:24:36

15 A. [REDACTED] 10:24:38

16 [REDACTED] 10:24:42

17 [REDACTED] 10:24:45

18 Q. [REDACTED] 10:24:47

19 [REDACTED] 10:24:48

20 A. [REDACTED] 10:24:48

21 [REDACTED] 10:24:52

22 [REDACTED]. 10:24:54

23 [REDACTED] 10:24:54

24 [REDACTED] 10:24:57

25 [REDACTED] 10:24:59

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1 [REDACTED] 10:25:00

2 [REDACTED] 10:25:02

3 A. [REDACTED]. 10:25:02

4 Q. If you turn to what's marked as 10:25:04

5 7 of 14, it ends in Bates 5184. Okay. So 10:25:09

6 we're at page 7 of Exhibit 5, noncompetition, 10:25:36

7 C 1. 10:25:42

8 Do you see that? 10:25:43

9 A. I do. 10:25:43

10 Q. Okay. Did you -- for the 10:25:44

11 period of 12 months after you left 10:25:48

12 Mallinckrodt, did you refrain from working in 10:25:50

13 the pharmaceutical industry? 10:25:55

14 MR. DAVISON: Objection. 10:25:56

15 THE WITNESS: I don't think 10:25:57

16 that that's what the noncompete is. 10:26:00

17 QUESTIONS BY MR. CHALOS: 10:26:04

18 Q. Okay. How did you interpret 10:26:04

19 the noncompete? 10:26:06

20 A. That it was specific to related 10:26:06

21 therapeutic areas or related areas. But I -- 10:26:11

22 I went to work at Biomedical Systems, which 10:26:17

23 is not a pharma company. 10:26:19

24 Q. Ah, okay. 10:26:20

25 Did you make your employment 10:26:21

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1 decisions for -- after you left Mallinckrodt 10:26:24

2 based -- or factoring in this provision of 10:26:29

3 your severance agreement that is labeled here 10:26:34

4 as noncompetition? 10:26:36

5 MR. DAVISON: Objection. 10:26:37

6 THE WITNESS: I'm sure that was 10:26:38

7 part of the decision, but it was 10:26:39

8 really more driven out of a need to 10:26:40

9 get a job. 10:26:42

10 QUESTIONS BY MR. CHALOS: 10:26:42

11 Q. Right. Okay. 10:26:43

12 If you turn over to 9, page 9 10:26:45

13 of Exhibit 5, there's a provision here, 10:26:49

14 paragraph 7. It says, "Nondisparagement. 10:26:54

15 Subject to the provision of this section 10:27:02

16 entitled Permissible Disclosures, employee 10:27:05

17 agrees employee will not disparage or subvert 10:27:09

18 the company or make any statement reflecting 10:27:14

19 negatively on the company, its affiliated 10:27:17

20 corporations or entities," et cetera, et 10:27:21

21 cetera. 10:27:22

22 Do you see that? 10:27:22

23 A. I do. 10:27:22

24 Q. Is this provision in this 10:27:23

25 agreement something that is impacting your 10:27:27

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1 answers here today in any way? 10:27:29

2 A. No. I'd honestly forgotten 10:27:31

3 about this. 10:27:37

4 Q. Okay. So your answers here 10:27:38

5 today are being made irrespective of any 10:27:41

6 provision in your severance agreement? 10:27:46

7 A. Correct. 10:27:47

8 Q. Okay. You can put Exhibit 5 10:27:48

9 aside. 10:27:51

10 (Mallinckrodt-Wessler Exhibit 6 10:27:55

11 marked for identification.) 10:27:56

12 QUESTIONS BY MR. CHALOS: 10:27:56

13 Q. We'll mark as Exhibit Number 6 10:28:06

14 a document that is MNK-T1\_0007845168 10:28:10

15 through 5171. 10:28:18

16 And if you look at Exhibit 10:28:39

17 Number 6, it has your final base salary with 10:28:46

18 the company at the time of your termination 10:28:51

19 as [REDACTED] 10:28:53

20 Do you see that? 10:28:57

21 A. Yes. 10:28:58

22 Q. Is that accurate? 10:28:58

23 A. That's my recollection. 10:29:00

24 Q. And you received a bonus of 10:29:02

25 [REDACTED] in a lump sum, is that right, in that 10:29:06



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<p>1 year? 10:29:12</p> <p>2 MR. DAVISON: Objection. 10:29:12</p> <p>3 THE WITNESS: Yes, that's my 10:29:12</p> <p>4 recollection. 10:29:13</p> <p>5 QUESTIONS BY MR. CHALOS: 10:29:13</p> <p>6 Q. Did they pay you at the time of 10:29:14</p> <p>7 your severance? 10:29:15</p> <p>8 A. I believe some time elapsed. I 10:29:16</p> <p>9 can't remember what the -- but it was roughly 10:29:19</p> <p>10 the time of the separation. 10:29:20</p> <p>11 Q. Okay. You can put that aside 10:29:22</p> <p>12 then. 10:29:46</p> <p>13 Have you ever seen your 10:30:16</p> <p>14 personnel file at Mallinckrodt? 10:30:31</p> <p>15 A. Not that I can recall. 10:30:32</p> <p>16 (Mallinckrodt-Wessler Exhibit 7 10:30:38</p> <p>17 marked for identification.) 10:30:39</p> <p>18 QUESTIONS BY MR. CHALOS: 10:30:39</p> <p>19 Q. Let's mark this as an exhibit. 10:30:39</p> <p>20 Okay. So we'll mark as Exhibit Number 7 10:31:06</p> <p>21 MNK-T1_0007845318 through 5323. And these 10:31:13</p> <p>22 are handwritten notes, it looks like, of an 10:31:23</p> <p>23 interview. Somebody did an interview of you. 10:31:31</p> <p>24 Have you ever seen this before? 10:31:41</p> <p>25 A. I have not. Not to my 10:31:42</p>	<p>1 starts at the Bates number I just gave. 10:33:22</p> <p>2 We'll call it Exhibit 8. And you can take as 10:33:25</p> <p>3 much time as you need to review that. 10:33:36</p> <p>4 My first question will be, do 10:33:37</p> <p>5 you know who prepared this presentation? 10:33:41</p> <p>6 A. I can't recall. 10:33:45</p> <p>7 Q. And you can review as much of 10:33:48</p> <p>8 this as you need. I'll ask you specific 10:33:55</p> <p>9 questions about specific slides. 10:33:57</p> <p>10 Unfortunately they're not numbered, so we'll 10:34:00</p> <p>11 just have to put them up on the screen here. 10:34:03</p> <p>12 But the first page says it's a 10:34:07</p> <p>13 presentation to Argent dated 9/17 of 2007. 10:34:08</p> <p>14 Do you know what Argent is? 10:34:13</p> <p>15 A. I believe that they were the 10:34:15</p> <p>16 partner from where we licensed the asset, but 10:34:19</p> <p>17 I can't remember specifically. 10:34:23</p> <p>18 Q. Okay. Okay. Have you had a 10:34:25</p> <p>19 chance to review Exhibit 8? 10:37:08</p> <p>20 A. I have. 10:37:10</p> <p>21 Q. Okay. Do you -- have you ever 10:37:11</p> <p>22 seen this document before today? 10:37:13</p> <p>23 A. It looks vaguely familiar, but 10:37:14</p> <p>24 I can't recollect the specifics. 10:37:17</p> <p>25 Q. Do you have any idea who 10:37:19</p>
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<p>1 recollection. 10:31:44</p> <p>2 Q. Okay. Do you have any idea 10:31:45</p> <p>3 whose handwriting that is? 10:31:50</p> <p>4 A. I do not. 10:31:51</p> <p>5 Q. Okay. Well, you can put that 10:31:52</p> <p>6 aside then. I wanted you to see that so you 10:31:54</p> <p>7 can, when you look at your deposition, see 10:32:00</p> <p>8 the interview notes from your first 10:32:03</p> <p>9 interview. 10:32:06</p> <p>10 A. Duly noted. 10:32:06</p> <p>11 Q. Yeah, doesn't really have 10:32:06</p> <p>12 anything to do with anything. 10:32:06</p> <p>13 A. They have pretty penmanship. 10:32:08</p> <p>14 Q. They do. They do. Little like 10:32:09</p> <p>15 time capsules. 10:32:12</p> <p>16 (Mallinckrodt-Wessler Exhibit 8 10:32:14</p> <p>17 marked for identification.) 10:32:17</p> <p>18 QUESTIONS BY MR. CHALOS: 10:32:17</p> <p>19 Q. Let's talk about then Magnacet. 10:32:17</p> <p>20 We'll mark as the next numbered 10:32:46</p> <p>21 exhibit a document, it looks like some kind 10:32:48</p> <p>22 of presentation. This will be marked as 10:32:53</p> <p>23 Exhibit Number 8, MNK-T1_0002713694. And it 10:32:55</p> <p>24 ends -- oh, it's in native format, so we 10:33:17</p> <p>25 don't have an end Bates. Okay. Well, it 10:33:20</p>	<p>1 originally prepared this document? 10:37:22</p> <p>2 MR. DAVISON: Objection. 10:37:24</p> <p>3 THE WITNESS: I can't remember. 10:37:24</p> <p>4 QUESTIONS BY MR. CHALOS: 10:37:26</p> <p>5 Q. Okay. Let me just ask you 10:37:26</p> <p>6 about a few -- the statements in here. So if 10:37:28</p> <p>7 you flip over to the second page, it says, 10:37:34</p> <p>8 "Franchise positioning." 10:37:39</p> <p>9 Do you see that? 10:37:41</p> <p>10 Magnacet -- 10:37:42</p> <p>11 A. I'm sorry, is this -- is this 10:37:43</p> <p>12 the page you're on? 10:37:44</p> <p>13 Q. Yeah, franchise positioning. 10:37:45</p> <p>14 And he's also got it up there. 10:37:47</p> <p>15 A. Oh, I'm sorry. 10:37:49</p> <p>16 Q. Yeah. Yeah, they're not 10:37:50</p> <p>17 numbered, so we'll just have to kind of 10:37:53</p> <p>18 follow along with each other. 10:37:55</p> <p>19 "Franchise positioning" is what 10:37:57</p> <p>20 it says on the heading of the page. It says, 10:37:59</p> <p>21 "The only pain relief product to combine four 10:38:01</p> <p>22 different dose strengths of oxycodone with 10:38:03</p> <p>23 400 milligrams of APAP." 10:38:06</p> <p>24 Do you see that? 10:38:08</p> <p>25 A. Yes. 10:38:09</p>



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<p>1 Q. What is APAP? 10:38:09</p> <p>2 A. Acetaminophen. 10:38:10</p> <p>3 Q. Okay. So there were -- the 10:38:11</p> <p>4 dosage in Magnacet of acetaminophen stayed 10:38:24</p> <p>5 the same, but then the dose of oxycodone 10:38:16</p> <p>6 varied among the four different strengths; is 10:38:21</p> <p>7 that right? 10:38:23</p> <p>8 A. Correct. 10:38:23</p> <p>9 Q. If you turn to the, let me see, 10:38:25</p> <p>10 one, two, three, fourth page, it says, 10:38:39</p> <p>11 "Physician sales aid," and there's a picture 10:38:45</p> <p>12 of a race car, The Pain Relief Challenge. 10:38:47</p> <p>13 Do you see that? 10:38:58</p> <p>14 A. Okay. Yes. 10:38:59</p> <p>15 Q. Is this a marketing piece that 10:38:59</p> <p>16 you developed? 10:39:01</p> <p>17 A. Myself and others. 10:39:01</p> <p>18 Q. Okay. But your team within 10:39:02</p> <p>19 Mallinckrodt developed this? 10:39:04</p> <p>20 A. Yeah. I think at the time I 10:39:05</p> <p>21 was like just a product manager. 10:39:06</p> <p>22 Q. Okay. 10:39:08</p> <p>23 A. So it would have been somebody 10:39:08</p> <p>24 else's team, technically. 10:39:10</p> <p>25 Q. Right. Yeah, this is -- if 10:39:11</p>	<p>1 Q. Those were for products beyond 10:40:14</p> <p>2 just the branded Mallinckrodt products, 10:40:20</p> <p>3 including generics and others? 10:40:22</p> <p>4 A. Correct. 10:40:23</p> <p>5 MR. DAVISON: Objection. 10:40:23</p> <p>6 QUESTIONS BY MR. CHALOS: 10:40:23</p> <p>7 Q. Okay. Did you ever, while you 10:40:24</p> <p>8 were at Mallinckrodt, have any role with 10:40:26</p> <p>9 respect to generic products? 10:40:27</p> <p>10 A. No. 10:40:29</p> <p>11 Q. Who did the marketing messaging 10:40:29</p> <p>12 for generic products at Mallinckrodt? 10:40:32</p> <p>13 MR. DAVISON: Objection. 10:40:34</p> <p>14 THE WITNESS: I don't recall. 10:40:34</p> <p>15 QUESTIONS BY MR. CHALOS: 10:40:35</p> <p>16 Q. Was it a different group 10:40:36</p> <p>17 entirely from your group? 10:40:38</p> <p>18 A. Yes. 10:40:39</p> <p>19 Q. Was there also a bulk narcotics 10:40:40</p> <p>20 group or division within Mallinckrodt when 10:40:46</p> <p>21 you were there? 10:40:48</p> <p>22 A. I believe they were called API. 10:40:48</p> <p>23 Q. What is that? 10:40:51</p> <p>24 A. Active pharmaceutical 10:40:52</p> <p>25 ingredients. 10:40:54</p>
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<p>1 this is in '07, you were a senior product 10:39:13</p> <p>2 manager; is that right? 10:39:16</p> <p>3 A. I can't remember my title. If 10:39:19</p> <p>4 that's what it says. 10:39:21</p> <p>5 Q. Yeah. This is dated 9/17 of 10:39:22</p> <p>6 2007. According to your LinkedIn, you became 10:39:27</p> <p>7 a senior product manager October of 2006 to 10:39:29</p> <p>8 November 2009. 10:39:33</p> <p>9 Does that sound right? 10:39:33</p> <p>10 A. Yes. To my recollection. 10:39:34</p> <p>11 Q. Okay. If you look at the next 10:39:35</p> <p>12 page, it's physician sales aid front cover 10:39:42</p> <p>13 continued. The second put there says, 10:39:45</p> <p>14 "Mallinckrodt is launching a new product." 10:39:53</p> <p>15 Under that it says, "Leverage our reputation. 10:39:56</p> <p>16 Number one producer of bulk narcotics." 10:40:00</p> <p>17 Do you see that? 10:40:03</p> <p>18 A. Uh-huh. 10:40:03</p> <p>19 Q. What does that mean? 10:40:03</p> <p>20 MR. DAVISON: Objection. 10:40:04</p> <p>21 QUESTIONS BY MR. CHALOS: 10:40:06</p> <p>22 Q. If you know? 10:40:06</p> <p>23 A. I mean, I think that that had 10:40:07</p> <p>24 to do with our manufacturing of active 10:40:11</p> <p>25 pharmaceutical ingredients. 10:40:13</p>	<p>1 Q. Did they have a marketing unit 10:40:55</p> <p>2 as well? 10:40:57</p> <p>3 A. I don't -- 10:40:57</p> <p>4 MR. DAVISON: Objection. 10:40:58</p> <p>5 THE WITNESS: I don't know. 10:40:59</p> <p>6 QUESTIONS BY MR. CHALOS: 10:40:59</p> <p>7 Q. Okay. I don't know how to say 10:40:59</p> <p>8 where this is, but it says, "Premium items." 10:41:09</p> <p>9 It's like not quite halfway through. It 10:41:18</p> <p>10 looks like that. It's a picture of a pen. 10:41:21</p> <p>11 A. Okay. Is it the pen or the 10:41:24</p> <p>12 cube? 10:41:25</p> <p>13 Q. Well, let me start with the 10:41:26</p> <p>14 pen. Yeah. 10:41:28</p> <p>15 So if you look at the page it 10:41:29</p> <p>16 says, "Premium items, Magnacet pens, MK8736." 10:41:33</p> <p>17 Do you see that? 10:41:40</p> <p>18 A. I do. 10:41:41</p> <p>19 Q. Is this an example of the sales 10:41:41</p> <p>20 collateral that you talked about earlier? 10:41:43</p> <p>21 A. Yeah, the tchotchkes or... 10:41:44</p> <p>22 Q. That's what I would call them, 10:41:47</p> <p>23 tchotchkes, yeah. 10:41:49</p> <p>24 So what does MK8736 mean? 10:41:50</p> <p>25 A. That refers to the order 10:41:55</p>

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1 number. 10:41:56

2 Q. Okay. Got it. 10:41:57

3 And then if you flip a couple 10:41:59

4 more, another one of the tchotchkes, or sales 10:42:00

5 collateral, is a Magnacet race car mint tin? 10:42:13

6 A. Okay. 10:42:16

7 Q. Do you see that? 10:42:16

8 A. Yes. 10:42:17

9 Q. Does that -- did these ever go 10:42:18

10 into actual production and get handed out? 10:42:21

11 MR. DAVISON: Objection. 10:42:24

12 THE WITNESS: Uh-huh. 10:42:24

13 QUESTIONS BY MR. CHALOS: 10:42:25

14 Q. Is that a yes? 10:42:25

15 A. Yes, I'm sorry. 10:42:26

16 Q. That's okay. 10:42:26

17 And if you flip over one more, 10:42:28

18 there's a die cast race car clock. 10:42:31

19 Do you see that? 10:42:35

20 A. Yes. 10:42:36

21 Q. Is that something that got 10:42:36

22 handed out as well? 10:42:39

23 MR. DAVISON: Objection. 10:42:40

24 THE WITNESS: That's my 10:42:40

25 understanding, yeah. 10:42:41

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1 QUESTIONS BY MR. CHALOS: 10:42:42

2 Q. Did you keep one of those? 10:42:42

3 A. I did not. 10:42:44

4 Q. Ah, too bad. It's pretty cool. 10:42:44

5 What was the purpose of the 10:42:48

6 sales collateral such as these cars and the 10:42:55

7 pens and pads and all that? 10:42:58

8 MR. DAVISON: Objection. 10:42:59

9 THE WITNESS: Brand awareness. 10:43:00

10 QUESTIONS BY MR. CHALOS: 10:43:03

11 Q. What would be done with these 10:43:04

12 products? Would they be given to physicians? 10:43:06

13 A. Yeah. 10:43:08

14 MR. DAVISON: Objection. 10:43:10

15 THE WITNESS: Or nursing staff. 10:43:10

16 But again, that was -- you know, they 10:43:11

17 were handed out through the sales 10:43:13

18 force. 10:43:15

19 QUESTIONS BY MR. CHALOS: 10:43:15

20 Q. Okay. If you keep turning 10:43:23

21 to -- it says, "Pharmacy sales aid, front 10:43:24

22 cover continued." Yeah, that's it, you got 10:43:27

23 it. 10:43:35

24 So it looks like -- it's after 10:43:35

25 another picture. 10:43:44

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1 A. Okay. 10:43:45

2 Q. You find it? 10:43:45

3 The third bullet says, "Proceed 10:43:46

4 with caution when positioning this product." 10:43:48

5 I should say, at the top of the 10:43:50

6 page it says, "Pharmacy sales aid, front 10:43:52

7 cover continued." 10:43:55

8 And then the third bullet says, 10:43:56

9 "Proceed with caution when positioning this 10:43:57

10 product to pharmacists." 10:43:59

11 And then the sub-bullet there 10:44:01

12 says, "Mallinckrodt generics sells oxy/APAP 10:44:02

13 combination products." 10:44:06

14 Do you see that? 10:44:08

15 A. Yes. 10:44:08

16 Q. So was one of the concerns when 10:44:09

17 marketing Magnacet that you didn't want to 10:44:10

18 cannibalize the generics market for similar 10:44:17

19 products? 10:44:21

20 MR. DAVISON: Objection. 10:44:21

21 THE WITNESS: I can't recall 10:44:22

22 specifically. 10:44:26

23 QUESTIONS BY MR. CHALOS: 10:44:26

24 Q. Okay. Do you recall a concern 10:44:27

25 that -- with Magnacet that pharmacists would 10:44:50

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1 attempt to fill that prescription with a 10:44:54

2 generic? 10:44:57

3 MR. DAVISON: Objection. 10:44:57

4 THE WITNESS: I'm sure that 10:44:58

5 that was something that came up. 10:45:03

6 QUESTIONS BY MR. CHALOS: 10:45:07

7 Q. And one of the ways for dealing 10:45:10

8 with that was Mallinckrodt produced a 10:45:12

9 prescription pad that had a signature line 10:45:16

10 that says "dispense as written"; is that 10:45:21

11 right? 10:45:25

12 MR. DAVISON: Objection. 10:45:25

13 THE WITNESS: We didn't produce 10:45:25

14 a prescription pad that had "dispense 10:45:26

15 as written." 10:45:27

16 QUESTIONS BY MR. CHALOS: 10:45:28

17 Q. Okay. 10:45:28

18 A. That might have been 10:45:29

19 illustrative in the sales aid, but we didn't 10:45:31

20 produce a prescription pad with "dispense as 10:45:36

21 written." 10:45:38

22 Q. Okay. If you turn to -- yeah, 10:45:40

23 it says, "Pharmacy sales aid inside spread," 10:45:45

24 page 2. 10:45:52

25 Well, let's start with the race 10:45:56

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<p>1 car. So is that -- I think I understand. So 10:45:58</p> <p>2 that prescription pad in the upper right of 10:46:05</p> <p>3 that sales aid says "dispense as written," I 10:46:09</p> <p>4 think. 10:46:15</p> <p>5 A. Correct. 10:46:15</p> <p>6 Q. Okay. And so the graph -- 10:46:16</p> <p>7 okay. And if you turn two more pages 10:46:18</p> <p>8 forward, yeah, it says "prescription pad." 10:46:22</p> <p>9 That's referencing the 10:46:28</p> <p>10 prescription pad in that pharmacy sales aid? 10:46:30</p> <p>11 MR. DAVISON: Objection. 10:46:32</p> <p>12 THE WITNESS: Okay. 10:46:33</p> <p>13 QUESTIONS BY MR. CHALOS: 10:46:34</p> <p>14 Q. Is that -- is that what your 10:46:34</p> <p>15 recollection is? 10:46:36</p> <p>16 MR. DAVISON: I think you're on 10:46:36</p> <p>17 the wrong -- 10:46:37</p> <p>18 QUESTIONS BY MR. CHALOS: 10:46:38</p> <p>19 Q. Oh, yeah, I'm sorry. 10:46:39</p> <p>20 A. I'm sorry. 10:46:40</p> <p>21 Q. Yeah. 10:46:41</p> <p>22 A. Oh, this is it. Okay. 10:46:42</p> <p>23 Q. Yeah. So if you look -- it 10:46:44</p> <p>24 says "Prescription" -- "Pharmacy sales aid 10:46:46</p> <p>25 inside spread, page 2, continued" at the top. 10:46:48</p>	<p>1 piece, back cover, continued." 10:47:39</p> <p>2 A. Is this the -- 10:47:50</p> <p>3 Q. No. If you would -- keep 10:47:51</p> <p>4 going, I think. 10:47:53</p> <p>5 MR. DAVISON: One more. 10:47:54</p> <p>6 THE WITNESS: Okay. 10:47:55</p> <p>7 QUESTIONS BY MR. CHALOS: 10:47:57</p> <p>8 Q. You see it says, "Pharmacy 10:47:57</p> <p>9 promotion piece, back cover, continued, 10:47:59</p> <p>10 details of the program." And it references a 10:48:01</p> <p>11 \$40 per bottle rebate underneath that. It 10:48:04</p> <p>12 says, "Very attractive offer." 10:48:06</p> <p>13 Do you see that? 10:48:09</p> <p>14 A. Uh-huh. 10:48:09</p> <p>15 Q. Okay. Was there a rebate at 10:48:10</p> <p>16 some point for pharmacies in connection with 10:48:12</p> <p>17 Magnacet? 10:48:13</p> <p>18 MR. DAVISON: Objection. 10:48:13</p> <p>19 THE WITNESS: Not that I can -- 10:48:13</p> <p>20 I can't recall, but based on this, it 10:48:15</p> <p>21 seems that that's the case. 10:48:18</p> <p>22 QUESTIONS BY MR. CHALOS: 10:48:19</p> <p>23 Q. Okay. Do you recall some kind 10:48:19</p> <p>24 of rebate program associated with Magnacet? 10:48:26</p> <p>25 MR. DAVISON: Objection. 10:48:29</p>
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<p>1 A. I'm sorry, yeah, okay. I think 10:46:50</p> <p>2 I'm in the right spot. 10:46:53</p> <p>3 Q. Yeah. And then it says 10:46:55</p> <p>4 "prescription pad." And then the, whatever, 10:46:55</p> <p>5 third or fourth bullet down it says, 10:46:55</p> <p>6 "Signature on the 'dispense as written line' 10:46:58</p> <p>7 reinforces that no substitution should occur 10:47:02</p> <p>8 with the product." 10:47:04</p> <p>9 A. Okay. 10:47:05</p> <p>10 Q. Do you see that? 10:47:05</p> <p>11 That's a reference, that 10:47:05</p> <p>12 signature pad -- sorry, the prescription pad 10:47:06</p> <p>13 is a reference to the one in the sales aid? 10:47:06</p> <p>14 MR. DAVISON: Objection. 10:47:09</p> <p>15 THE WITNESS: That's my -- 10:47:10</p> <p>16 that's my recollection. 10:47:10</p> <p>17 QUESTIONS BY MR. CHALOS: 10:47:11</p> <p>18 Q. Okay. So Mallinckrodt, to your 10:47:11</p> <p>19 recollection, never produced a prescription 10:47:12</p> <p>20 pad for doctors to use; is that right? 10:47:15</p> <p>21 A. That's my recollection. 10:47:17</p> <p>22 MR. DAVISON: Objection. 10:47:18</p> <p>23 QUESTIONS BY MR. CHALOS: 10:47:18</p> <p>24 Q. Okay. Okay. If you could turn 10:47:20</p> <p>25 to the page that says, "Pharmacy promotion 10:47:36</p>	<p>1 THE WITNESS: Not specifically. 10:48:29</p> <p>2 QUESTIONS BY MR. CHALOS: 10:48:29</p> <p>3 Q. Okay. Okay. If you could turn 10:48:30</p> <p>4 further along to -- it says, "Magnacet 10:48:35</p> <p>5 patient access program." 10:48:38</p> <p>6 I think most of the other 10:48:39</p> <p>7 presentations have page numbers, so -- 10:48:43</p> <p>8 A. Okay. 10:48:45</p> <p>9 Q. -- it won't be this tedious. 10:48:45</p> <p>10 This one. Yeah, that's it. 10:48:50</p> <p>11 A. I'm sorry. 10:48:51</p> <p>12 MR. DAVISON: Next page. 10:48:52</p> <p>13 THE WITNESS: Okay. Okay. 10:48:53</p> <p>14 QUESTIONS BY MR. CHALOS: 10:48:57</p> <p>15 Q. Yeah, there you got it. 10:48:58</p> <p>16 It says, "Magnacet patient 10:48:59</p> <p>17 access program, co-pay discount cards, 10:49:01</p> <p>18 discount from their third-party payer 10:49:05</p> <p>19 co-pay." 10:49:09</p> <p>20 And the next bullet says, "\$30 10:49:10</p> <p>21 off initial three fills with minimum 10:49:12</p> <p>22 patient" -- "with MIN patient responsibility 10:49:15</p> <p>23 of \$5." 10:49:17</p> <p>24 Do you see that? 10:49:18</p> <p>25 A. Yes. 10:49:18</p>

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<p>1 Q. Do you recall a patient co-pay discount program with Magnacet? 10:49:19</p> <p>2 10:49:21</p> <p>3 A. Generally, yes. 10:49:22</p> <p>4 Q. And by that program, it would be some reduced co-pay for the patients? 10:49:24</p> <p>5 10:49:27</p> <p>6 A. Correct. 10:49:29</p> <p>7 Q. Okay. If you flip over to the next page, "Guaranteed sales program." 10:49:30</p> <p>8 10:49:36</p> <p>9 Do you recall there being a guaranteed sales program for pharmacies associated with Magnacet? 10:49:43</p> <p>10 10:49:44</p> <p>11 10:49:48</p> <p>12 MR. DAVISON: Objection. 10:49:50</p> <p>13 THE WITNESS: Not specifically, but, I mean, I see this here. 10:49:50</p> <p>14 10:49:57</p> <p>15 QUESTIONS BY MR. CHALOS: 10:49:58</p> <p>16 Q. Yeah, do you -- do you understand what a guaranteed sales program is? 10:49:58</p> <p>17 10:49:59</p> <p>18 10:50:01</p> <p>19 MR. DAVISON: Objection. 10:50:01</p> <p>20 THE WITNESS: I believe so. 10:50:02</p> <p>21 QUESTIONS BY MR. CHALOS: 10:50:06</p> <p>22 Q. How do those programs work in general? 10:50:07</p> <p>23 10:50:09</p> <p>24 MR. DAVISON: Objection. 10:50:10</p> <p>25 THE WITNESS: Well, I think 10:50:11</p>	<p>1 Q. Did you -- when you were at Mallinckrodt, did you ever recall seeing a script that was given to sales representatives to simulate an interaction with the doctor? 10:51:30</p> <p>2 10:51:31</p> <p>3 10:51:40</p> <p>4 10:51:41</p> <p>5 10:51:44</p> <p>6 MR. DAVISON: Objection. 10:51:45</p> <p>7 THE WITNESS: Did I ever, yes, I'm sure. 10:51:45</p> <p>8 10:51:47</p> <p>9 QUESTIONS BY MR. CHALOS: 10:51:47</p> <p>10 Q. Was that -- were those scripts developed by the marketing department? 10:51:48</p> <p>11 10:51:50</p> <p>12 A. We would participate, but I think generally they were developed by the training department. 10:51:51</p> <p>13 10:51:54</p> <p>14 10:51:55</p> <p>15 Q. Was the training department separate from the marketing department? 10:51:55</p> <p>16 10:52:01</p> <p>17 A. Yes. 10:52:02</p> <p>18 Q. Was that located within the sales group? 10:52:02</p> <p>19 10:52:05</p> <p>20 A. To be honest, it probably varied over my tenure. I think initially it was sales and sales training or sales operations and training. I think it fluctuated over time. 10:52:07</p> <p>21 10:52:11</p> <p>22 10:52:14</p> <p>23 10:52:17</p> <p>24 10:52:18</p> <p>25 Q. Okay. Were you ever part of 10:52:20</p>
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<p>1 this might have been, looking at this, the only time that we did this, so I -- I don't know generally how they work, but I think specifically how this one worked is -- well, I actually shouldn't speak to that. I basically would have to read off of this. 10:50:13</p> <p>2 10:50:15</p> <p>3 10:50:17</p> <p>4 10:50:19</p> <p>5 10:50:21</p> <p>6 10:50:26</p> <p>7 10:50:27</p> <p>8 QUESTIONS BY MR. CHALOS: 10:50:29</p> <p>9 Q. Do you recall there being a guaranteed sales program with Magnacet? 10:50:29</p> <p>10 10:50:31</p> <p>11 A. Not before you put this in front of me. 10:50:34</p> <p>12 10:50:36</p> <p>13 Q. Okay. Okay. You can put that aside. 10:50:37</p> <p>14 10:50:45</p> <p>15 One of the tools that Mallinckrodt salespeople used was a -- was scripts for selling scenarios and interactions with doctors; is that right? 10:50:46</p> <p>16 10:51:10</p> <p>17 10:51:16</p> <p>18 10:51:21</p> <p>19 MR. DAVISON: Objection. 10:51:22</p> <p>20 THE WITNESS: Can you be more specific or can you -- 10:51:23</p> <p>21 10:51:25</p> <p>22 QUESTIONS BY MR. CHALOS: 10:51:26</p> <p>23 Q. Yeah. 10:51:27</p> <p>24 A. I'm not sure I understand the question. 10:51:27</p> <p>25 10:51:30</p>	<p>1 the sales training group? 10:52:21</p> <p>2 A. I was not part of the sales training group. 10:52:22</p> <p>3 10:52:24</p> <p>4 Q. Did you ever have a role in sales training while you were at Mallinckrodt? 10:52:24</p> <p>5 10:52:26</p> <p>6 10:52:27</p> <p>7 MR. DAVISON: Objection. 10:52:28</p> <p>8 THE WITNESS: I'm -- not explicitly. 10:52:28</p> <p>9 10:52:33</p> <p>10 QUESTIONS BY MR. CHALOS: 10:52:33</p> <p>11 Q. Was the division of labor between the sales group and the marketing group, was that consistent over time when you were at Mallinckrodt, or did that change? 10:52:34</p> <p>12 10:52:45</p> <p>13 10:52:46</p> <p>14 10:52:49</p> <p>15 MR. DAVISON: Objection. 10:52:53</p> <p>16 THE WITNESS: I think it was pretty consistent over time. 10:52:54</p> <p>17 10:52:57</p> <p>18 QUESTIONS BY MR. CHALOS: 10:52:58</p> <p>19 Q. Okay. So what did the sales group do versus the marketing group with respect to the opioid products, let's say? 10:52:58</p> <p>20 10:53:01</p> <p>21 10:53:03</p> <p>22 MR. DAVISON: Objection. 10:53:06</p> <p>23 THE WITNESS: The sales group talked to physicians and promoted the product, specifically the risks and 10:53:06</p> <p>24 10:53:07</p> <p>25 10:53:11</p>



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<p>1 benefits of the product. They 10:53:16</p> <p>2 educated them, the physicians. 10:53:17</p> <p>3 Whereas the marketing really -- group 10:53:20</p> <p>4 developed the marketing message. 10:53:22</p> <p>5 QUESTIONS BY MR. CHALOS: 10:53:23</p> <p>6 Q. Okay. What was your role in 10:53:23</p> <p>7 developing the launch plan for Magnacet? 10:53:28</p> <p>8 A. I participated in that. I 10:53:32</p> <p>9 think that at the time Geoffrey Arbuckle was 10:53:39</p> <p>10 the head of the marketing. 10:53:42</p> <p>11 (Mallinckrodt-Wessler Exhibit 9 10:53:57</p> <p>12 marked for identification.) 10:53:57</p> <p>13 QUESTIONS BY MR. CHALOS: 10:53:57</p> <p>14 Q. Let's mark as Exhibit Number 9 10:53:57</p> <p>15 an e-mail, MNK-T1_0003065351. 10:54:02</p> <p>16 Have you had a chance to review 10:54:16</p> <p>17 that? 10:54:40</p> <p>18 A. Yes. 10:54:40</p> <p>19 Q. Okay. This is an e-mail dated 10:54:41</p> <p>20 February 21st of 2007 at 5:31 p.m. from you 10:54:44</p> <p>21 to somebody named Jason Jones. 10:54:49</p> <p>22 Do you see that? 10:54:51</p> <p>23 A. Yes. 10:54:51</p> <p>24 Q. Do you know who Jason Jones is? 10:54:52</p> <p>25 A. Yes. 10:54:53</p>	<p>1 with pharmacies? 10:55:52</p> <p>2 A. He -- I know he worked in the 10:55:53</p> <p>3 managed care area, which dealt with 10:55:55</p> <p>4 pharmacies and dealt with managed care 10:55:57</p> <p>5 payers, but as I mentioned, I don't recollect 10:56:02</p> <p>6 what position he was in at this time. 10:56:05</p> <p>7 Q. Okay. And next line here is, 10:56:06</p> <p>8 "Our sales force is actively creating demand 10:56:08</p> <p>9 in physicians' offices in your proximity." 10:56:10</p> <p>10 Do you see that? 10:56:13</p> <p>11 A. Yes. 10:56:13</p> <p>12 Q. And that was one of the goals 10:56:14</p> <p>13 of the sales force, was to actively create 10:56:15</p> <p>14 demand for Mallinckrodt products? 10:56:17</p> <p>15 MR. DAVISON: Objection. 10:56:20</p> <p>16 THE WITNESS: The role of the 10:56:21</p> <p>17 sales force was to educate physicians 10:56:22</p> <p>18 on the risks and benefits of the 10:56:24</p> <p>19 product so the physicians could make 10:56:26</p> <p>20 the decision on the appropriate 10:56:27</p> <p>21 patients for the therapy. 10:56:29</p> <p>22 QUESTIONS BY MR. CHALOS: 10:56:34</p> <p>23 Q. What does "actively" creating 10:56:35</p> <p>24 demand mean here? 10:56:37</p> <p>25 MR. DAVISON: Objection. 10:56:38</p>
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<p>1 Q. Who is that? 10:54:54</p> <p>2 A. He was a former employee of 10:54:55</p> <p>3 Mallinckrodt. 10:54:58</p> <p>4 Q. I mean, what was his role? 10:54:59</p> <p>5 A. It varied pretty substantially. 10:55:01</p> <p>6 Q. Do you have any idea of what 10:55:04</p> <p>7 his role was in 2007? 10:55:06</p> <p>8 A. I don't, off the top of my 10:55:07</p> <p>9 head. 10:55:10</p> <p>10 Q. Okay. Well, in this e-mail you 10:55:10</p> <p>11 said to Mr. Jones, "Magnacet is a product 10:55:11</p> <p>12 which maximizes the analgesia provided in an 10:55:16</p> <p>13 oxycodone/APAP combination product while 10:55:20</p> <p>14 remaining below the 4-gram threshold at two 10:55:24</p> <p>15 tablet QID dosing by virtue of the unique 10:55:28</p> <p>16 400-milligram dose." 10:55:33</p> <p>17 The next line is, "Purchase now 10:55:34</p> <p>18 and receive a \$40 rebate per bottle, up to a 10:55:36</p> <p>19 maximum of \$80 or two bottles per pharmacy." 10:55:39</p> <p>20 Do you see that? 10:55:44</p> <p>21 A. Yes. 10:55:44</p> <p>22 Q. Okay. Does that refresh your 10:55:44</p> <p>23 recollection as to what role Mr. Jones may 10:55:48</p> <p>24 have had? 10:55:51</p> <p>25 Did he have something to do 10:55:51</p>	<p>1 THE WITNESS: That -- that I 10:56:39</p> <p>2 can't really speculate on -- because I 10:56:39</p> <p>3 can't remember the context of this 10:56:41</p> <p>4 e-mail at all. 10:56:41</p> <p>5 QUESTIONS BY MR. CHALOS: 10:56:42</p> <p>6 Q. Okay. Was that phrase 10:56:43</p> <p>7 "actively" creating demand something that you 10:56:45</p> <p>8 used when you worked at Mallinckrodt in terms 10:56:49</p> <p>9 of the role of the sales force? 10:56:51</p> <p>10 MR. DAVISON: Objection. 10:56:53</p> <p>11 THE WITNESS: Well, as it's 10:56:54</p> <p>12 here in front of me in 2007, it 10:56:57</p> <p>13 appears I used it once, but I can't 10:56:59</p> <p>14 speak to whether I used it frequently 10:57:03</p> <p>15 or not. 10:57:05</p> <p>16 QUESTIONS BY MR. CHALOS: 10:57:06</p> <p>17 Q. Okay. Well, is one of the 10:57:06</p> <p>18 roles of the sales force at Mallinckrodt to 10:57:13</p> <p>19 actively create demand for Mallinckrodt 10:57:15</p> <p>20 products? 10:57:17</p> <p>21 MR. DAVISON: Objection. 10:57:18</p> <p>22 THE WITNESS: One of the roles 10:57:18</p> <p>23 is to, again, educate physicians so 10:57:20</p> <p>24 that they can make the decision. 10:57:24</p> <p>25</p>



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1 QUESTIONS BY MR. CHALOS: 10:57:25

2 Q. Right. 10:57:25

3 Was -- I understand it was that 10:57:25

4 a role, but was one of their goals of the 10:57:27

5 sales force to actively create demand for 10:57:29

6 Mallinckrodt products? 10:57:32

7 MR. DAVISON: Objection. 10:57:33

8 THE WITNESS: In the 10:57:33

9 appropriate patient types, subject to 10:57:34

10 physicians' discretion, yes. 10:57:37

11 (Mallinckrodt-Wessler Exhibit 10:57:42

12 10 marked for identification.) 10:57:44

13 QUESTIONS BY MR. CHALOS: 10:57:46

14 Q. Okay. We'll mark Exhibit 10:57:46

15 Number 10 here, which is MNK-T1\_0003064798. 10:57:47

16 And on the top of this document it says, 10:58:04

17 "Pharmacy guaranteed sales program selling 10:58:06

18 scenario." 10:58:11

19 Do you see that? 10:58:11

20 A. I do see that. 10:58:12

21 Q. Okay. You can take as much as 10:58:12

22 you need to review the document. My first 10:58:14

23 question will be is do you know who prepared 10:58:15

24 this document? 10:58:18

25 A. I do not know who prepared 10:58:20

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1 this. 10:58:28

2 And I -- after we get through 10:58:29

3 these questions -- 10:58:31

4 Q. Yes. 10:58:31

5 A. -- could I use the restroom? 10:58:32

6 Q. Absolutely. Yes. 10:58:33

7 A. Okay. 10:58:33

8 Q. Let's finish with this 10:58:34

9 document, if you can hold it. 10:58:35

10 A. Absolutely, I can. 10:58:37

11 Q. Okay. But if we get emergency 10:58:38

12 status, let me know. 10:58:40

13 A. No, I just wanted to... 10:58:41

14 Q. Yes, sure. 10:58:43

15 A. So in answer to your question I 10:58:48

16 believe you asked, I do not know who prepared 10:58:51

17 this document. 10:58:53

18 Q. Okay. Is this the type of 10:58:53

19 document, when you were at Mallinckrodt, that 10:58:55

20 would come from the marketing department? 10:58:57

21 MR. DAVISON: Objection. 10:58:58

22 THE WITNESS: I can't remember 10:58:59

23 who would produce this. It could have 10:59:02

24 been marketing; it could have been 10:59:04

25 sales training. 10:59:06

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1 QUESTIONS BY MR. CHALOS: 10:59:06

2 Q. Okay. Were sales 10:59:07

3 representatives told to call on pharmacies as 10:59:14

4 well with respect to Magnacet? 10:59:19

5 MR. DAVISON: Objection. 10:59:20

6 THE WITNESS: I can't recall 10:59:20

7 specifically. I mean, based on the 10:59:22

8 fact that we had a program, I'm sure 10:59:23

9 that they did call on pharmacies. 10:59:26

10 QUESTIONS BY MR. CHALOS: 10:59:28

11 Q. Okay. If you look at the 10:59:28

12 second -- well, third paragraph, it says, 10:59:32

13 "Rep: I have been driving physician demand 10:59:35

14 in the area for Magnacet, and my company is 10:59:38

15 so confident we will generate prescriptions 10:59:42

16 that we will guarantee it." 10:59:43

17 Do you see that? 10:59:45

18 A. Uh-huh. 10:59:45

19 Q. Okay. Is that a message that 10:59:47

20 came from the marketing department, to your 10:59:56

21 recollection? 10:59:58

22 MR. DAVISON: Objection. 10:59:58

23 THE WITNESS: I don't recall. 10:59:59

24 And I don't know if this was a draft 11:00:00

25 document or -- you know, I don't 11:00:01

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1 really recall. 11:00:03

2 QUESTIONS BY MR. CHALOS: 11:00:04

3 Q. Okay. You don't know who 11:00:05

4 prepared this? 11:00:07

5 A. I don't -- I don't remember who 11:00:08

6 prepared the -- 11:00:09

7 Q. While you were at Mallinckrodt, 11:00:10

8 did you -- do you recall ever hearing the 11:00:13

9 terms "driving physician demand" or something 11:00:16

10 like that? 11:00:19

11 MR. DAVISON: Objection. 11:00:19

12 THE WITNESS: I can't recall. 11:00:20

13 MR. CHALOS: Okay. Okay. You 11:00:21

14 can put that aside for now, and let's 11:00:30

15 take a quick break. 11:00:33

16 VIDEOGRAPHER: We are going off 11:00:34

17 the record at 11 a.m. 11:00:35

18 (Off the record at 11:00 a.m.) 11:00:37

19 VIDEOGRAPHER: We are back on 11:09:49

20 the record at 11:09 a.m. 11:10:04

21 (Mallinckrodt-Wessler Exhibit 11:10:06

22 11 marked for identification.) 11:10:07

23 QUESTIONS BY MR. CHALOS: 11:10:07

24 Q. Okay. Let's mark as Exhibit 11:10:07

25 Number 11 MNK-T1\_0001126586, and it's another 11:10:09

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<p>1 presentation with no page numbers. 11:10:21</p> <p>2 A. Okay. No problem. 11:10:25</p> <p>3 Q. The first page says, "2009 11:10:26</p> <p>4 TussiCaps A&amp;P budget presentation," and it's 11:10:28</p> <p>5 dated December the 10th of 2008. 11:10:33</p> <p>6 My first question to you will 11:10:36</p> <p>7 be what is A&amp;P? 11:10:39</p> <p>8 A. I believe advertising and 11:10:42</p> <p>9 promotion. 11:10:43</p> <p>10 Q. Okay. Okay. Have you had a 11:10:44</p> <p>11 chance to review that? 11:13:10</p> <p>12 A. I have. 11:13:10</p> <p>13 Q. Okay. Have you seen this 11:13:11</p> <p>14 document before today? 11:13:12</p> <p>15 A. I can't recall. 11:13:13</p> <p>16 Q. Was this a document that you 11:13:14</p> <p>17 prepared? 11:13:18</p> <p>18 MR. DAVISON: Objection. 11:13:18</p> <p>19 THE WITNESS: I can't recall. 11:13:19</p> <p>20 QUESTIONS BY MR. CHALOS: 11:13:20</p> <p>21 Q. And was your role in 2008 with 11:13:21</p> <p>22 respect to TussiCaps related to preparing A&amp;P 11:13:27</p> <p>23 budgets? 11:13:33</p> <p>24 A. Yes. 11:13:33</p> <p>25 Q. Okay. Was there anybody else 11:13:34</p>	<p>1 The FDA -- there were products that 11:14:36</p> <p>2 were unapproved. They were -- I don't 11:14:38</p> <p>3 know what kind of a -- I'm not a 11:14:40</p> <p>4 regulatory expert, but I think they 11:14:42</p> <p>5 were grandfathered or something like 11:14:46</p> <p>6 that so they weren't officially 11:14:47</p> <p>7 subject to FDA approval. They 11:14:49</p> <p>8 predated that, so I believe the FDA 11:14:50</p> <p>9 removed them from the marketplace. 11:14:52</p> <p>10 QUESTIONS BY MR. CHALOS: 11:14:53</p> <p>11 Q. If you turn to, I don't know, 11:15:05</p> <p>12 it's eight or ten pages in, it says, "2009 11:15:07</p> <p>13 A&amp;P overview." 11:15:10</p> <p>14 A. Okay. 11:15:15</p> <p>15 Q. It says at the top, 11:15:18</p> <p>16 "\$7.11 million investment in total." 11:15:21</p> <p>17 Do you see that? 11:15:26</p> <p>18 A. Yes. 11:15:26</p> <p>19 Q. And there's a breakdown among 11:15:27</p> <p>20 five categories. 11:15:28</p> <p>21 Do you see that? 11:15:29</p> <p>22 A. Yes, I see that. 11:15:30</p> <p>23 Q. Okay. So is that -- do you 11:15:31</p> <p>24 recall that the -- well, let me back up. 11:15:35</p> <p>25 Does that mean that the 11:15:36</p>
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<p>1 in that role as well at that time? 11:13:35</p> <p>2 A. Whoever else would have been in 11:13:37</p> <p>3 marketing at that time. 11:13:39</p> <p>4 Q. Okay. So you may have prepared 11:13:41</p> <p>5 this; is that possible? 11:13:44</p> <p>6 MR. DAVISON: Objection. 11:13:47</p> <p>7 THE WITNESS: It is possible. 11:13:48</p> <p>8 QUESTIONS BY MR. CHALOS: 11:13:49</p> <p>9 Q. You just don't remember? 11:13:49</p> <p>10 A. I do not. 11:13:50</p> <p>11 Q. Okay. Well, let me ask you 11:13:52</p> <p>12 about a few things here. If you could turn 11:13:54</p> <p>13 to -- to this third page, it says, "Cough and 11:13:57</p> <p>14 cold market." 11:14:04</p> <p>15 It says, "The fiscal year '08 11:14:15</p> <p>16 and '09 cough and cold market is in a state 11:14:16</p> <p>17 of flux. September 28, 2007, FDA announced 11:14:20</p> <p>18 removal of approximately 200 hydrocodone 11:14:25</p> <p>19 products from the market." 11:14:26</p> <p>20 Do you see that? 11:14:27</p> <p>21 A. Yes. 11:14:28</p> <p>22 Q. Do you recall what that was all 11:14:28</p> <p>23 about? 11:14:30</p> <p>24 MR. DAVISON: Objection. 11:14:31</p> <p>25 THE WITNESS: Just vaguely. 11:14:31</p>	<p>1 investment in A&amp;P -- and what was A&amp;P again? 11:15:38</p> <p>2 A. Advertising and promotion. 11:15:43</p> <p>3 Q. Yeah, the investment in 11:15:44</p> <p>4 advertising and promotion in 2009 for 11:15:45</p> <p>5 TussiCaps was -- the expenditure was 11:15:49</p> <p>6 \$7.1 million? 11:15:53</p> <p>7 MR. DAVISON: Objection. 11:15:54</p> <p>8 THE WITNESS: I don't know, 11:15:54</p> <p>9 because I don't know if this is final, 11:15:56</p> <p>10 a draft or this was what we may have 11:15:57</p> <p>11 proposed, so I frankly don't know. 11:16:00</p> <p>12 QUESTIONS BY MR. CHALOS: 11:16:05</p> <p>13 Q. Okay. If you turn over to the 11:16:06</p> <p>14 next page, it says, "Operational tactic and 11:16:13</p> <p>15 budget." 11:16:16</p> <p>16 The second big bullet says, 11:16:18</p> <p>17 "276 million incremented monthly based upon 11:16:23</p> <p>18 the initial tactical plan." 11:16:25</p> <p>19 Do you see that? 11:16:27</p> <p>20 A. I'm losing -- 11:16:28</p> <p>21 Q. Okay. It's "Operational 11:16:29</p> <p>22 tactics and budget." 11:16:31</p> <p>23 A. This is where I'm at -- 11:16:34</p> <p>24 Q. Yeah. 11:16:34</p> <p>25 A. -- but that doesn't look like 11:16:35</p>

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<p>1 that. 11:16:36</p> <p>2 MR. DAVISON: I think you went 11:16:36</p> <p>3 too far. 11:16:37</p> <p>4 MR. CHALOS: I think one page 11:16:38</p> <p>5 prior to that. 11:16:39</p> <p>6 THE WITNESS: Okay. 11:16:40</p> <p>7 MR. CHALOS: You're right, 11:16:40</p> <p>8 Peter. Yeah. 11:16:42</p> <p>9 QUESTIONS BY MR. CHALOS: 11:16:43</p> <p>10 Q. Do you see that? 11:16:44</p> <p>11 A. Yes. 11:16:44</p> <p>12 Q. And okay. It says, "276M 11:16:45</p> <p>13 incremented monthly based upon initial 11:16:49</p> <p>14 tactical plan." 11:16:51</p> <p>15 Do you see that? 11:16:53</p> <p>16 A. Yes. 11:16:53</p> <p>17 Q. Is that -- what is 276 -- is 11:16:53</p> <p>18 that 276 million? 11:16:55</p> <p>19 MR. DAVISON: Objection. 11:16:56</p> <p>20 THE WITNESS: I can't recall, 11:16:56</p> <p>21 but that seems like that would be way 11:16:58</p> <p>22 inordinately high. 11:17:00</p> <p>23 QUESTIONS BY MR. CHALOS: 11:17:02</p> <p>24 Q. Yeah. Okay. Right. 11:17:02</p> <p>25 Did you have any role when you 11:17:16</p>	<p>1 to peer: Budget and tactics, third-party 11:18:27</p> <p>2 partnership, evaluating American College of 11:18:31</p> <p>3 Emergency Physicians as a possible partner." 11:18:34</p> <p>4 Do you see that? 11:18:35</p> <p>5 A. Yes. 11:18:35</p> <p>6 Q. Did you have any role as -- 11:18:36</p> <p>7 with Mallinckrodt in determining which 11:18:39</p> <p>8 third-party partnerships the company should 11:18:42</p> <p>9 enter into? 11:18:44</p> <p>10 MR. DAVISON: Objection. 11:18:44</p> <p>11 THE WITNESS: Maybe identifying 11:18:45</p> <p>12 them but not owning those 11:18:47</p> <p>13 partnerships, and I frankly don't 11:18:49</p> <p>14 remember any of this. 11:18:51</p> <p>15 QUESTIONS BY MR. CHALOS: 11:18:52</p> <p>16 Q. Okay. It says, "Personal 11:18:52</p> <p>17 promotion: Budget and tactics" on top. And 11:19:24</p> <p>18 then it says "trials" -- there it is, "trial 11:19:26</p> <p>19 scripts." Yeah. 11:19:30</p> <p>20 A. I'm sorry. 11:19:59</p> <p>21 Q. That's okay. It's cumbersome 11:19:59</p> <p>22 here. 11:20:01</p> <p>23 A. Okay. 11:20:01</p> <p>24 Q. "Personal promotion" and "trial 11:20:03</p> <p>25 scripts" is what it says. 11:20:03</p>
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<p>1 were at Mallinckrodt in developing any of the 11:17:17</p> <p>2 medical literature, medical studies, 11:17:20</p> <p>3 regarding any of the Mallinckrodt products? 11:17:24</p> <p>4 A. The clinical trials and things 11:17:26</p> <p>5 like that? 11:17:27</p> <p>6 Q. No, I mean the -- well, let's 11:17:28</p> <p>7 start with that, yes, clinical trials? 11:17:31</p> <p>8 A. No. 11:17:33</p> <p>9 Q. Okay. What about the 11:17:33</p> <p>10 literature that -- postmarketing literature, 11:17:35</p> <p>11 did you have any role in developing any of 11:17:38</p> <p>12 that? 11:17:40</p> <p>13 MR. DAVISON: Objection. 11:17:40</p> <p>14 THE WITNESS: Writing it or -- 11:17:41</p> <p>15 no. 11:17:43</p> <p>16 QUESTIONS BY MR. CHALOS: 11:17:43</p> <p>17 Q. In deciding what areas needed 11:17:44</p> <p>18 to be addressed through medical literature, 11:17:46</p> <p>19 did you have any role in deciding that? 11:17:49</p> <p>20 A. Not as it related to medical 11:17:50</p> <p>21 literature. 11:17:52</p> <p>22 Q. Okay. If you flip over to -- 11:17:53</p> <p>23 it says, "Clinical peer to peer: Budget and 11:17:59</p> <p>24 tactics." 11:18:02</p> <p>25 This page says, "Clinical peer 11:18:20</p>	<p>1 A. Okay. 11:20:03</p> <p>2 Q. "Integral tool to garner 11:20:06</p> <p>3 initial trial," under that it says, "Four 11:20:08</p> <p>4 free capsules with accompanying 11:20:11</p> <p>5 prescription." 11:20:13</p> <p>6 Do you see that? 11:20:14</p> <p>7 A. Yes. 11:20:14</p> <p>8 Q. Do you recall with TussiCaps if 11:20:14</p> <p>9 there was a program where patients would 11:20:15</p> <p>10 receive four free capsules with a 11:20:17</p> <p>11 prescription? 11:20:20</p> <p>12 MR. DAVISON: Objection. 11:20:20</p> <p>13 THE WITNESS: Now that you've 11:20:21</p> <p>14 put this in front of me. 11:20:22</p> <p>15 QUESTIONS BY MR. CHALOS: 11:20:24</p> <p>16 Q. Okay. Do you also recall a 11:20:24</p> <p>17 discount for patients, or is that something 11:20:28</p> <p>18 you were just -- if you look at -- sorry. 11:20:29</p> <p>19 Look at the next page, if you would. 11:20:31</p> <p>20 "Personal promotion: Budget 11:20:33</p> <p>21 and tactics, co-pay discount coupons." 11:20:37</p> <p>22 It says, "10 percent discount 11:20:42</p> <p>23 of patient out-of-pocket costs." 11:20:46</p> <p>24 Do you see that? 11:20:49</p> <p>25 A. It says, "\$10 discount when 11:20:49</p>

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<p>1 accompanied" -- 11:20:50</p> <p>2 Q. Yeah. What did I say, 10 11:20:50</p> <p>3 percent?</p> <p>4 A. Yeah.</p> <p>5 Q. \$10, yeah, \$10.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall that program as 11:20:53</p> <p>9 you sit here today? 11:20:55</p> <p>10 A. Yeah, now that you put it in 11:20:55</p> <p>11 front of me. 11:20:57</p> <p>12 Q. Okay. If you turn to 11:20:57</p> <p>13 nonpersonal promotion website. 11:21:14</p> <p>14 Do you recall there being a 11:21:24</p> <p>15 website capthecough.com associated with 11:21:26</p> <p>16 TussiCaps? 11:21:32</p> <p>17 A. Now, again, now that you put it 11:21:33</p> <p>18 in front of me. 11:21:35</p> <p>19 Q. Okay. Did that ever go online, 11:21:36</p> <p>20 do you remember, that website? 11:21:39</p> <p>21 A. I believe so. I can't recall 11:21:40</p> <p>22 specifically. 11:21:43</p> <p>23 Q. Flip to the next page, digital 11:21:43</p> <p>24 advertising. It references, "Banner ads, 11:21:54</p> <p>25 skyscraper ads, to drive health care 11:21:58</p>	<p>1 remember if we fielded this initiative or 11:22:57</p> <p>2 not. 11:23:00</p> <p>3 Q. Okay. Meaning whether you 11:23:00</p> <p>4 implemented it? 11:23:02</p> <p>5 A. Correct. 11:23:02</p> <p>6 Q. Okay. Is TussiCaps still on 11:23:03</p> <p>7 the market? 11:23:11</p> <p>8 A. I honestly can't recall. Or I 11:23:11</p> <p>9 don't -- I mean, I shouldn't say I can't 11:23:16</p> <p>10 recall. I don't know. Because as I 11:23:17</p> <p>11 mentioned before, I think Mallinckrodt sold 11:23:20</p> <p>12 this asset. 11:23:21</p> <p>13 Q. Okay. So we may only have one 11:23:22</p> <p>14 copy. 11:23:38</p> <p>15 MR. DAVISON: We have some 11:23:40</p> <p>16 copies here. 11:23:41</p> <p>17 (Mallinckrodt-Wessler Exhibit 11:23:53</p> <p>18 12 marked for identification.) 11:23:53</p> <p>19 QUESTIONS BY MR. CHALOS: 11:23:53</p> <p>20 Q. Let's mark as Exhibit 12 a 11:24:00</p> <p>21 document, MNK-T1_0007901756 through 1762. 11:24:01</p> <p>22 Here you are. And you can look at the entire 11:24:15</p> <p>23 document. 11:24:24</p> <p>24 What I'm going to ask you about 11:24:24</p> <p>25 is under the marketing section on page 1760. 11:24:26</p>
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<p>1 practitioners and patients to our website." 11:22:00</p> <p>2 Do you see that? 11:22:04</p> <p>3 MR. DAVISON: Objection. 11:22:04</p> <p>4 THE WITNESS: Uh-huh. 11:22:05</p> <p>5 QUESTIONS BY MR. CHALOS: 11:22:05</p> <p>6 Q. Is that something that ever 11:22:05</p> <p>7 happened? 11:22:06</p> <p>8 A. Or I should say yes. Sorry. 11:22:06</p> <p>9 Q. Yeah, you got it. 11:22:08</p> <p>10 Was that -- were there ever 11:22:09</p> <p>11 skyscraper ads associated with TussiCaps, to 11:22:11</p> <p>12 your knowledge? 11:22:14</p> <p>13 A. I can't recall. 11:22:14</p> <p>14 Q. Okay. If you flip over to the 11:22:15</p> <p>15 page that says, "Nonpersonal promotion, 11:22:26</p> <p>16 budget and tactics, Catalina marketing 11:22:29</p> <p>17 initiative. Target patients filling 11:22:32</p> <p>18 three-plus Tussionex prescriptions in rolling 11:22:44</p> <p>19 three" -- sorry -- "rolling six-month 11:22:47</p> <p>20 period." 11:22:50</p> <p>21 Do you see where it says that? 11:22:50</p> <p>22 A. Yes. 11:22:51</p> <p>23 Q. Do you recall the Catalina 11:22:51</p> <p>24 marketing initiative? 11:22:53</p> <p>25 A. I recall it generally. I can't 11:22:56</p>	<p>1 There's also a 5 in the upper right corner of 11:24:31</p> <p>2 that page. But you can read as much of this 11:24:34</p> <p>3 as you need to get context. 11:24:37</p> <p>4 And the date on the document 11:24:47</p> <p>5 was -- sorry about that. The date on the 11:24:48</p> <p>6 document is July 6, 2004. 11:24:52</p> <p>7 A. Okay. 11:26:44</p> <p>8 Q. Okay. So this is something 11:26:44</p> <p>9 that is entitled "Monthly Report June." 11:26:50</p> <p>10 Do you see that? 11:26:53</p> <p>11 A. Yes. 11:26:53</p> <p>12 Q. Do you recognize this format? 11:26:54</p> <p>13 A. I don't recall it. 11:26:56</p> <p>14 Q. Okay. You're in 20 -- I'm 11:26:58</p> <p>15 sorry, 2004. What was your role at 11:27:02</p> <p>16 Mallinckrodt then? Do you remember? 11:27:06</p> <p>17 A. I believe it was prior to my 11:27:11</p> <p>18 role in marketing. I don't remember the 11:27:14</p> <p>19 specific title. 11:27:16</p> <p>20 Q. Sales operation? 11:27:16</p> <p>21 A. Probably at that time. 11:27:17</p> <p>22 Q. Okay. So if you look at that 11:27:20</p> <p>23 page -- 11:27:22</p> <p>24 A. Yeah, actually -- 11:27:23</p> <p>25 Q. Sorry, yeah. 11:27:24</p>



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<p>1 A. -- it says I got promoted to 11:27:25</p> <p>2 marketing manager, new products. So on 11:27:27</p> <p>3 page 7. 11:27:29</p> <p>4 Q. Yeah. 11:27:30</p> <p>5 A. So that would have been before 11:27:30</p> <p>6 my role in marketing. 11:27:32</p> <p>7 Q. Okay. So in the section here 11:27:33</p> <p>8 that -- on page 1760, it's page 5 of 11:27:36</p> <p>9 Exhibit 12, the marketing section? 11:27:40</p> <p>10 A. Yes. 11:27:42</p> <p>11 Q. At that time did you have 11:27:43</p> <p>12 anything to do with preparing or presenting 11:27:45</p> <p>13 the marking section here? 11:27:49</p> <p>14 A. I do not remember. 11:27:50</p> <p>15 Q. Okay. And what I'm asking 11:27:51</p> <p>16 specifically about is the section there that 11:27:54</p> <p>17 says, "Results against performance metrics, 11:27:56</p> <p>18 marketing physician productivity and ROI on 11:27:59</p> <p>19 marketing programs." 11:28:03</p> <p>20 Do you see that? 11:28:04</p> <p>21 A. Yes. 11:28:04</p> <p>22 Q. Okay. As you sit here today, 11:28:05</p> <p>23 do you recall having anything to do with that 11:28:07</p> <p>24 portion of this report? 11:28:09</p> <p>25 A. Not that I can recall. 11:28:10</p>	<p>1 MR. DAVISON: Objection. 11:30:17</p> <p>2 THE WITNESS: I believe I 11:30:18</p> <p>3 certainly played a role in that. 11:30:20</p> <p>4 QUESTIONS BY MR. CHALOS: 11:30:21</p> <p>5 Q. You can take as much time as 11:31:13</p> <p>6 you need to review this. My first question 11:31:16</p> <p>7 will be about page 11, Exhibit 13. 11:31:18</p> <p>8 A. Okay. 11:31:43</p> <p>9 Q. From a marketing standpoint, 11:31:44</p> <p>10 was TussiCaps considered a success? 11:31:46</p> <p>11 MR. DAVISON: Objection. 11:31:48</p> <p>12 THE WITNESS: I can't really 11:31:49</p> <p>13 recall. I don't know how it did 11:31:53</p> <p>14 relative to budget in terms of the 11:31:55</p> <p>15 forecast goal. 11:31:58</p> <p>16 QUESTIONS BY MR. CHALOS: 11:31:58</p> <p>17 Q. How about Exalgo? From a 11:32:00</p> <p>18 marketing standpoint, was Exalgo considered a 11:32:02</p> <p>19 success? 11:32:05</p> <p>20 MR. DAVISON: Objection. 11:32:05</p> <p>21 THE WITNESS: I know that it -- 11:32:06</p> <p>22 I probably don't believe so, given the 11:32:12</p> <p>23 really low market share. I think on 11:32:14</p> <p>24 page 12 it's, you know, less than 11:32:17</p> <p>25 1 percent. It's .37 percent TRx 11:32:19</p>
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<p>1 Q. Okay. Okay. We can put that 11:28:11</p> <p>2 aside then. 11:28:15</p> <p>3 What was your role with respect 11:28:16</p> <p>4 to Exalgo at Mallinckrodt? 11:28:27</p> <p>5 A. I was, I believe, the product 11:28:31</p> <p>6 director at that time. 11:28:35</p> <p>7 Q. Okay. What does that mean in 11:28:36</p> <p>8 terms of your duties? 11:28:38</p> <p>9 A. I was responsible for 11:28:40</p> <p>10 development of marketing messaging and 11:28:43</p> <p>11 development of the marketing collateral or 11:28:46</p> <p>12 sales pieces. 11:28:49</p> <p>13 (Mallinckrodt-Wessler Exhibit 11:29:27</p> <p>14 13 marked for identification.) 11:29:27</p> <p>15 QUESTIONS BY MR. CHALOS: 11:29:27</p> <p>16 Q. So we'll mark as Exhibit 13 11:29:37</p> <p>17 MNK-T1_0001192760. It's another native 11:29:40</p> <p>18 document, but these slides have numbers on 11:29:50</p> <p>19 them. 11:29:54</p> <p>20 So the first page says, "Fiscal 11:29:56</p> <p>21 year '10, TussiCaps and Exalgo commercial 11:29:58</p> <p>22 plans dated October 28th of 2009." 11:30:02</p> <p>23 Was it your responsibility at 11:30:10</p> <p>24 that time in 2009 to develop the commercial 11:30:12</p> <p>25 plans for TussiCaps and Exalgo? 11:30:14</p>	<p>1 market share objective. So it was a 11:32:23</p> <p>2 very small product. 11:32:25</p> <p>3 QUESTIONS BY MR. CHALOS: 11:32:26</p> <p>4 Q. Was there ever a time where 11:32:28</p> <p>5 Exalgo, from a marketing standpoint, was 11:32:31</p> <p>6 considered successful? 11:32:33</p> <p>7 MR. DAVISON: Objection. 11:32:34</p> <p>8 THE WITNESS: Not that I can 11:32:35</p> <p>9 recall. But I guess it would 11:32:36</p> <p>10 fundamentally depend on who you asked. 11:32:43</p> <p>11 QUESTIONS BY MR. CHALOS: 11:32:46</p> <p>12 Q. And I think -- well, was 11:32:47</p> <p>13 Xartemis, from a marketing standpoint -- 11:32:53</p> <p>14 sorry -- Xartemis, from a marketing 11:32:57</p> <p>15 standpoint, considered to be successful? 11:32:59</p> <p>16 MR. DAVISON: Objection. 11:33:00</p> <p>17 THE WITNESS: Ah, no. 11:33:00</p> <p>18 QUESTIONS BY MR. CHALOS: 11:33:01</p> <p>19 Q. Probably doesn't depend on who 11:33:02</p> <p>20 you asked for that one. 11:33:04</p> <p>21 A. Well, I mean, I'm severed as a 11:33:05</p> <p>22 consequence. 11:33:08</p> <p>23 Q. Okay. Let's look at page -- 11:33:09</p> <p>24 actually, page 8 of Exhibit 13. It says, 11:33:13</p> <p>25 "Exalgo TOWS." 11:33:23</p>

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<p>1 Do you see that? 11:33:25</p> <p>2 A. Yeah. 11:33:25</p> <p>3 Q. I think TOWS stands for 11:33:26</p> <p>4 threats, opportunities, weaknesses and 11:33:29</p> <p>5 strengths. 11:33:31</p> <p>6 Does that sound right? 11:33:31</p> <p>7 MR. DAVISON: Objection. 11:33:32</p> <p>8 THE WITNESS: Seems reasonable. 11:33:32</p> <p>9 QUESTIONS BY MR. CHALOS: 11:33:34</p> <p>10 Q. Okay. I'm going to ask you 11:33:35</p> <p>11 about a couple of these phrases here. 11:33:36</p> <p>12 First of all, let me back up. 11:33:39</p> <p>13 How -- how were the threats, 11:33:40</p> <p>14 opportunities, weaknesses and strengths of 11:33:43</p> <p>15 Exalgo determined in 2009? 11:33:46</p> <p>16 MR. DAVISON: Objection. 11:33:50</p> <p>17 THE WITNESS: I can't recall at 11:33:50</p> <p>18 that time. 11:33:52</p> <p>19 QUESTIONS BY MR. CHALOS: 11:33:52</p> <p>20 Q. Was that something within your 11:33:53</p> <p>21 area of responsibility? 11:33:54</p> <p>22 A. I probably would have 11:33:55</p> <p>23 contributed. 11:33:59</p> <p>24 Q. Okay. If you look at the 11:34:00</p> <p>25 weaknesses box on page 8 of Exhibit 13, do 11:34:05</p>	<p>1 A. Yes. 11:34:58</p> <p>2 Q. How was that a threat to 11:34:58</p> <p>3 Exalgo? 11:34:59</p> <p>4 MR. DAVISON: Objection. 11:35:00</p> <p>5 THE WITNESS: I think that 11:35:01</p> <p>6 would leave certainly a stain on the 11:35:06</p> <p>7 reputation of the company and on the 11:35:08</p> <p>8 product, so we were diligent about 11:35:10</p> <p>9 trying to do what we could to make 11:35:14</p> <p>10 sure that the product was used in a 11:35:16</p> <p>11 safe manner. That was really 11:35:19</p> <p>12 important in our promotional efforts. 11:35:22</p> <p>13 QUESTIONS BY MR. CHALOS: 11:35:23</p> <p>14 Q. What was -- what did the 11:35:24</p> <p>15 company do to prevent or reduce diversion of 11:35:26</p> <p>16 its products at that time? 11:35:30</p> <p>17 MR. DAVISON: Objection. 11:35:31</p> <p>18 THE WITNESS: I can't recall 11:35:32</p> <p>19 specifically. That was outside my 11:35:34</p> <p>20 area of expertise. 11:35:36</p> <p>21 QUESTIONS BY MR. CHALOS: 11:35:37</p> <p>22 Q. Okay. The next bullet says, 11:35:38</p> <p>23 "Possible Palladone reentry." 11:35:41</p> <p>24 Do you see that? 11:35:43</p> <p>25 A. Yes. 11:35:43</p>
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<p>1 you see that? 11:34:10</p> <p>2 A. Yes. 11:34:10</p> <p>3 Q. The second bullet point says, 11:34:11</p> <p>4 "Physician concerns regarding abuse potential 11:34:13</p> <p>5 related to hydromorphone." 11:34:15</p> <p>6 Do you see that? 11:34:18</p> <p>7 A. Yes. 11:34:18</p> <p>8 Q. Do you have any idea what that 11:34:19</p> <p>9 means? 11:34:20</p> <p>10 A. I think physicians were 11:34:20</p> <p>11 concerned about the potency of hydromorphone 11:34:26</p> <p>12 relative to morphine. 11:34:30</p> <p>13 Q. Hydromorphone being more potent 11:34:31</p> <p>14 than morphine? 11:34:34</p> <p>15 A. Yes. 11:34:36</p> <p>16 Q. And how did you know that at 11:34:36</p> <p>17 that time? 11:34:38</p> <p>18 A. I can't recall specifically, 11:34:38</p> <p>19 but it's in the literature. 11:34:42</p> <p>20 Q. If you go down to threats, that 11:34:43</p> <p>21 section? 11:34:48</p> <p>22 A. Yes. 11:34:50</p> <p>23 Q. The third bullet, "Abuse, 11:34:50</p> <p>24 misuse and diversion." 11:34:55</p> <p>25 Do you see that? 11:34:57</p>	<p>1 Q. What was -- what is Palladone? 11:35:44</p> <p>2 A. Palladone, I believe, was a 11:35:46</p> <p>3 hydromorphone extended release product that 11:35:48</p> <p>4 another company had at one time, had in 11:35:51</p> <p>5 development. I can't remember the specifics. 11:35:56</p> <p>6 Q. Okay. And the next bullet 11:35:58</p> <p>7 says, "Reluctance to use potent opioids for 11:36:00</p> <p>8 chronic, noncancer pain." 11:36:03</p> <p>9 Do you see that? 11:36:05</p> <p>10 A. Yes. 11:36:06</p> <p>11 Q. What does that mean? 11:36:06</p> <p>12 MR. DAVISON: Objection. 11:36:07</p> <p>13 THE WITNESS: I can't recall 11:36:08</p> <p>14 specifically. 11:36:11</p> <p>15 QUESTIONS BY MR. CHALOS: 11:36:11</p> <p>16 Q. Was one of the goals of the 11:36:13</p> <p>17 Exalgo marketing to give information to 11:36:16</p> <p>18 physicians about using Exalgo for chronic, 11:36:20</p> <p>19 noncancer pain? 11:36:24</p> <p>20 A. The product was studied 11:36:26</p> <p>21 predominantly in chronic, noncancer pain. 11:36:29</p> <p>22 The whole pivotal phase III trial was based, 11:36:33</p> <p>23 I believe, predominantly on even low back 11:36:37</p> <p>24 pain, so consistent with the package insert 11:36:40</p> <p>25 is how we promoted the product. 11:36:44</p>

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<p>1 Q. And one of the marketing 11:36:46</p> <p>2 messages for promoting Exalgo was that Exalgo 11:36:48</p> <p>3 could be used with chronic, noncancer pain; 11:36:52</p> <p>4 is that fair? 11:36:55</p> <p>5 A. I'm not sure that we were 11:36:55</p> <p>6 specific in terms of whether it was chronic, 11:36:57</p> <p>7 noncancer or cancer pain. I believe the 11:36:59</p> <p>8 indication wasn't that specific. 11:37:02</p> <p>9 Q. So the marketing message was 11:37:04</p> <p>10 Exalgo can be used for patients with chronic 11:37:08</p> <p>11 pain, irrespective -- 11:37:11</p> <p>12 MR. DAVISON: Objection. 11:37:13</p> <p>13 THE WITNESS: Who are 11:37:13</p> <p>14 opioid-tolerant. 11:37:15</p> <p>15 QUESTIONS BY MR. CHALOS: 11:37:16</p> <p>16 Q. Right. 11:37:16</p> <p>17 A. And I believe there were other 11:37:17</p> <p>18 nuances to that as well. So we promoted the 11:37:18</p> <p>19 product consistent with the product 11:37:20</p> <p>20 indication. 11:37:21</p> <p>21 Q. Okay. But one of the 11:37:21</p> <p>22 indications was chronic pain, irrespective of 11:37:23</p> <p>23 whether it was cancer or noncancer? 11:37:26</p> <p>24 A. It wasn't that specific. It 11:37:27</p> <p>25 was silent on that, so it didn't say the 11:37:29</p>	<p>1 THE WITNESS: I'm pretty sure 11:38:30</p> <p>2 that this is a draft. I don't know 11:38:32</p> <p>3 that this represents the final 11:38:34</p> <p>4 tactical tactics that we fielded. 11:38:37</p> <p>5 QUESTIONS BY MR. CHALOS: 11:38:40</p> <p>6 Q. And do you think there were 11:38:41</p> <p>7 more tactics and tools or fewer tactics and 11:38:46</p> <p>8 tools that were ultimately used? 11:38:48</p> <p>9 A. I can't say. I mean, I can 11:38:49</p> <p>10 tell you specifically that the Portenoy 11:38:51</p> <p>11 Summit, I don't think that was ever used, 11:38:54</p> <p>12 that was ever a tactic that was fielded, so 11:38:56</p> <p>13 that's why it stands out to me. 11:38:58</p> <p>14 Q. Got it. 11:38:59</p> <p>15 Do any of these other tactics 11:39:00</p> <p>16 and tools stand out to you as tactics and 11:39:02</p> <p>17 tools that were not used to promote Exalgo? 11:39:06</p> <p>18 A. I don't know that we ever did a 11:39:11</p> <p>19 MOD video. 11:39:14</p> <p>20 Q. What is an MOD video? 11:39:17</p> <p>21 A. I can't remember. I think it 11:39:20</p> <p>22 has to do with a method of action or -- you 11:39:21</p> <p>23 know. 11:39:26</p> <p>24 Q. That's under the patient 11:39:26</p> <p>25 welcome kit -- 11:39:28</p>
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<p>1 specific source of the chronic pain. 11:37:31</p> <p>2 Q. Okay. So the marketing 11:37:35</p> <p>3 message -- one of the marketing messages with 11:37:36</p> <p>4 Exalgo is this is indicated for patients with 11:37:40</p> <p>5 chronic pain, period? 11:37:42</p> <p>6 MR. DAVISON: Objection. 11:37:43</p> <p>7 THE WITNESS: I believe it was 11:37:44</p> <p>8 opioid-tolerant, chronic pain. 11:37:44</p> <p>9 QUESTIONS BY MR. CHALOS: 11:37:47</p> <p>10 Q. Okay. If you turn to page 17 11:37:47</p> <p>11 of Exhibit 13, it says, "Tactics and tools" 11:37:51</p> <p>12 on top. 11:37:57</p> <p>13 A. Okay. 11:38:04</p> <p>14 Q. Do you see that? 11:38:04</p> <p>15 And there's three columns and 11:38:06</p> <p>16 three rows -- 11:38:10</p> <p>17 A. Okay. Yeah. 11:38:14</p> <p>18 Q. -- of different tactics and 11:38:15</p> <p>19 tools. 11:38:17</p> <p>20 Do you see that? 11:38:17</p> <p>21 A. Yes. 11:38:18</p> <p>22 Q. Does this page include the 11:38:18</p> <p>23 tactics and tools that Mallinckrodt used to 11:38:20</p> <p>24 promote Exalgo? 11:38:29</p> <p>25 MR. DAVISON: Objection. 11:38:29</p>	<p>1 A. Yes. 11:39:28</p> <p>2 Q. -- you're talking about? 11:39:29</p> <p>3 Okay. Any others stand out as 11:39:32</p> <p>4 not being used for Exalgo? 11:39:33</p> <p>5 A. Not that I can recall. 11:39:35</p> <p>6 Q. Okay. Do any of these stand 11:39:36</p> <p>7 out to you as things that you did, in fact, 11:39:39</p> <p>8 use with Exalgo? 11:39:42</p> <p>9 A. Well, I know that we had a 11:39:43</p> <p>10 master sales and leave-behinds, so, yes. 11:39:45</p> <p>11 Q. You did lunch and learn 11:39:48</p> <p>12 programs? 11:39:50</p> <p>13 MR. DAVISON: Objection. 11:39:51</p> <p>14 THE WITNESS: I believe so. 11:39:51</p> <p>15 QUESTIONS BY MR. CHALOS: 11:39:52</p> <p>16 Q. Used clinical reprints? 11:39:53</p> <p>17 A. I can't recall. 11:39:54</p> <p>18 Q. How about physician welcome 11:39:55</p> <p>19 kit? 11:39:56</p> <p>20 A. I can't recall. 11:39:57</p> <p>21 Q. Dosing conversion tool? 11:39:58</p> <p>22 A. I believe so. 11:40:01</p> <p>23 Q. I think you did an iPad app for 11:40:03</p> <p>24 that as well? 11:40:06</p> <p>25 A. I believe so. 11:40:07</p>

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<p>1 Q. Okay. What is a Fingertip 11:40:07</p> <p>2 Formulary? 11:40:10</p> <p>3 A. Fingertip Formulary is a tool 11:40:10</p> <p>4 where you can see for a specific managed care 11:40:14</p> <p>5 plan how Exalgo is covered, what tier it is, 11:40:22</p> <p>6 tier 1, 2, 3, et cetera. 11:40:25</p> <p>7 Q. Did the company prepare a 11:40:28</p> <p>8 Fingertip Formulary for Exalgo? 11:40:31</p> <p>9 A. I believe they partnered with 11:40:32</p> <p>10 Fingertip Formulary for that, yes. 11:40:34</p> <p>11 Q. Oh, okay. 11:40:36</p> <p>12 How about a product monograph? 11:40:38</p> <p>13 A. I believe so. 11:40:39</p> <p>14 Q. Okay. And Mallinckrodt used 11:40:40</p> <p>15 speaker programs for -- to promote Exalgo? 11:40:43</p> <p>16 A. Yes. 11:40:45</p> <p>17 Q. Used advisory boards as well to 11:40:46</p> <p>18 promote Exalgo? 11:40:48</p> <p>19 A. An advisory board is used to 11:40:49</p> <p>20 generate feedback from physicians, but it's 11:40:54</p> <p>21 not necessarily used as a promotional tool. 11:40:56</p> <p>22 But I can't remember. I believe we did an 11:40:59</p> <p>23 advisory board for Exalgo. 11:41:01</p> <p>24 Q. Okay. What is a product 11:41:03</p> <p>25 theature? 11:41:07</p>	<p>1 Q. Okay. Direct mail campaign? 11:41:57</p> <p>2 A. I can't recall. 11:42:00</p> <p>3 Q. Okay. With respect to 11:42:01</p> <p>4 wholesalers, retail pharmacy and MCO, what is 11:42:04</p> <p>5 MCO? 11:42:07</p> <p>6 A. I believe it stands for managed 11:42:08</p> <p>7 care organizations. 11:42:10</p> <p>8 Q. Okay. Were there pharmacy 11:42:11</p> <p>9 sales aids produced in -- associated with 11:42:13</p> <p>10 Exalgo? 11:42:17</p> <p>11 A. I believe so. I don't know if 11:42:17</p> <p>12 it was separate from the physician sales aid 11:42:18</p> <p>13 or not. I can't recall. 11:42:21</p> <p>14 Q. Okay. Were there leave-behinds 11:42:22</p> <p>15 for wholesalers, retailer pharmacy and MCOs? 11:42:24</p> <p>16 A. I believe so. 11:42:28</p> <p>17 Q. What about lunch and learn 11:42:29</p> <p>18 programs? 11:42:30</p> <p>19 A. I can't recall specifically. 11:42:31</p> <p>20 Q. Were there clinical preprints 11:42:32</p> <p>21 for that group? 11:42:38</p> <p>22 A. I can't recall for that group. 11:42:38</p> <p>23 Q. How about Fingertip 11:42:40</p> <p>24 Formularies? 11:42:42</p> <p>25 A. Yeah, as I mentioned, I believe 11:42:42</p>
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<p>1 A. A product theature, I honestly 11:41:08</p> <p>2 don't know because I don't believe we did 11:41:11</p> <p>3 those. 11:41:13</p> <p>4 Q. Okay. Did Mallinckrodt use a 11:41:13</p> <p>5 PR campaign in association with Exalgo? 11:41:18</p> <p>6 A. We had a PR -- we had a PR 11:41:22</p> <p>7 group that we used, though I don't know 11:41:25</p> <p>8 that -- I don't recall what tactics we used. 11:41:28</p> <p>9 That was -- usually fell under the auspices 11:41:31</p> <p>10 of our communications group. 11:41:34</p> <p>11 Q. Okay. Was there a publication 11:41:35</p> <p>12 strategy for Exalgo? 11:41:36</p> <p>13 A. I believe our medical affairs 11:41:37</p> <p>14 group developed one. 11:41:39</p> <p>15 Q. Okay. And how about a product 11:41:40</p> <p>16 website? 11:41:42</p> <p>17 A. We did have a product website. 11:41:42</p> <p>18 Q. Was there a direct mail 11:41:44</p> <p>19 program? 11:41:47</p> <p>20 A. I can't recall specifically. 11:41:47</p> <p>21 Q. Okay. How about an MD alert? 11:41:48</p> <p>22 A. I can't recall on that. 11:41:51</p> <p>23 Q. Okay. Were there journal ads 11:41:53</p> <p>24 associated with Exalgo? 11:41:54</p> <p>25 A. Yes, I believe so. 11:41:55</p>	<p>1 that was a tactic that was developed. 11:42:44</p> <p>2 Q. Stocking request forms, were 11:42:45</p> <p>3 those done? 11:42:50</p> <p>4 A. I believe so. 11:42:50</p> <p>5 Q. How about trade -- well, let me 11:42:51</p> <p>6 go back. What are stocking request forms? 11:42:53</p> <p>7 A. It would be a piece of paper 11:42:56</p> <p>8 that a physician would sign indicating their 11:42:58</p> <p>9 desire to prescribe Exalgo. That would then 11:43:05</p> <p>10 go to the pharmacy as sort of a testament for 11:43:09</p> <p>11 them to stock the product because they had a 11:43:12</p> <p>12 physician that wanted to prescribe the 11:43:14</p> <p>13 product. 11:43:15</p> <p>14 Q. How would those stocking 11:43:15</p> <p>15 request forms get to the pharmacy? 11:43:17</p> <p>16 MR. DAVISON: Objection. 11:43:19</p> <p>17 THE WITNESS: I don't know 11:43:19</p> <p>18 specifically. 11:43:21</p> <p>19 QUESTIONS BY MR. CHALOS: 11:43:21</p> <p>20 Q. Is that something that the 11:43:22</p> <p>21 sales reps would bring to the pharmacy? 11:43:23</p> <p>22 MR. DAVISON: Objection. 11:43:25</p> <p>23 THE WITNESS: I believe they 11:43:25</p> <p>24 could, but I don't know specifically. 11:43:26</p> <p>25</p>



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<p>1 QUESTIONS BY MR. CHALOS: 11:43:27</p> <p>2 Q. Okay. What are trade 11:43:29</p> <p>3 communications? 11:43:31</p> <p>4 A. I don't know. 11:43:31</p> <p>5 Q. How about product monographs? 11:43:32</p> <p>6 A. Yeah, that -- that was 11:43:34</p> <p>7 developed. 11:43:36</p> <p>8 Q. Okay. Did you have any role in 11:43:36</p> <p>9 determining whether wholesalers would get 11:43:39</p> <p>10 rebates on any of the Mallinckrodt products? 11:43:43</p> <p>11 A. I did not. 11:43:44</p> <p>12 Q. Were there speaker programs for 11:43:45</p> <p>13 the wholesalers, retail pharmacies or MCOs? 11:43:48</p> <p>14 A. Generally not. 11:43:51</p> <p>15 Q. How about an advisory board? 11:43:53</p> <p>16 A. Not that I can recall. 11:43:55</p> <p>17 Q. Okay. Did you have any role in 11:43:56</p> <p>18 discussions with third-party payers about 11:44:02</p> <p>19 getting Exalgo on formularies? 11:44:05</p> <p>20 A. No. 11:44:07</p> <p>21 Q. Okay. What is a pharmacy 11:44:07</p> <p>22 Pharm/alert? 11:44:11</p> <p>23 A. I think it's like a -- an 11:44:12</p> <p>24 e-mail blast. 11:44:16</p> <p>25 Q. Okay. And did -- were there 11:44:17</p>	<p>1 Q. And the MOD video you don't -- 11:45:06</p> <p>2 A. I can't remember. 11:45:09</p> <p>3 Q. Okay. How about a transition 11:45:10</p> <p>4 tool? 11:45:12</p> <p>5 A. I can't remember that 11:45:12</p> <p>6 specifically. 11:45:13</p> <p>7 Q. Okay. Was there a product 11:45:14</p> <p>8 website developed that had a section intended 11:45:15</p> <p>9 to target patients? 11:45:20</p> <p>10 A. I believe there was a section 11:45:22</p> <p>11 for patients that is written in a language 11:45:24</p> <p>12 that patients can understand their 11:45:29</p> <p>13 requirements about, you know, the education 11:45:31</p> <p>14 level that you have to target for that 11:45:33</p> <p>15 language. 11:45:35</p> <p>16 Q. Okay. And if you flip to the 11:45:36</p> <p>17 next page, page 18, yeah, budget allocation, 11:45:40</p> <p>18 I haven't added all these up, but do you 11:45:51</p> <p>19 recall whether the final budget allocation 11:45:56</p> <p>20 for fiscal year 2010 ended up breaking down 11:45:59</p> <p>21 the way it's depicted on page 18 of 11:46:06</p> <p>22 Exhibit 13? 11:46:12</p> <p>23 A. I can't recall. 11:46:12</p> <p>24 Q. Okay. You can put that aside 11:46:13</p> <p>25 for now. 11:46:15</p>
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<p>1 any pharmacy Pharm/alerts associated with 11:44:19</p> <p>2 Exalgo? 11:44:23</p> <p>3 A. I can't recall specifically. 11:44:23</p> <p>4 Q. Okay. 11:44:25</p> <p>5 A. I believe so. 11:44:25</p> <p>6 Q. But you believe so, you said? 11:44:26</p> <p>7 A. Yes. 11:44:27</p> <p>8 Q. Okay. How about an MCO 11:44:28</p> <p>9 contracting? 11:44:30</p> <p>10 A. I'm sure we contracted with 11:44:30</p> <p>11 managed care organizations. 11:44:32</p> <p>12 Q. Okay. And then with respect to 11:44:33</p> <p>13 tactics and tools associated with patients, 11:44:35</p> <p>14 was there a patient welcome kit developed? 11:44:38</p> <p>15 A. I believe so. 11:44:42</p> <p>16 Q. Okay. What does patient 11:44:42</p> <p>17 education mean there? 11:44:44</p> <p>18 A. I believe it was a brochure 11:44:44</p> <p>19 that -- that talked about how to safely use 11:44:47</p> <p>20 the product, so it reinforced the medication 11:44:53</p> <p>21 guide developed by the FDA for the product in 11:44:56</p> <p>22 association with the package insert. 11:44:58</p> <p>23 Q. Okay. Was there a co-pay 11:45:02</p> <p>24 discount program for Exalgo? 11:45:04</p> <p>25 A. I believe so. 11:45:05</p>	<p>1 (Mallinckrodt-Wessler Exhibit 11:46:41</p> <p>2 14 marked for identification.) 11:46:41</p> <p>3 QUESTIONS BY MR. CHALOS: 11:46:42</p> <p>4 Q. Let's mark as Exhibit 14 a 11:46:42</p> <p>5 document, Bates MNK-T1_0001188838. And it is 11:46:44</p> <p>6 a presentation that says, "Specialty 11:46:53</p> <p>7 pharmaceuticals, medical affairs team 11:46:56</p> <p>8 meeting, February 18, 2010." 11:46:59</p> <p>9 Hand you that. And it's a 11:47:02</p> <p>10 relatively long document here. I'm going to 11:47:08</p> <p>11 focus you on the Exalgo section. You can 11:47:11</p> <p>12 feel free to review as much of this as you 11:47:17</p> <p>13 want, but the Exalgo plan which starts, it 11:47:21</p> <p>14 looks like, page 21 and goes through page 36. 11:47:25</p> <p>15 But you can look through the whole document 11:47:43</p> <p>16 if you'd like. 11:47:45</p> <p>17 Tell me when you've had a 11:47:46</p> <p>18 chance to review all of that. 11:49:32</p> <p>19 A. Certainly. 11:49:33</p> <p>20 Q. My first question is going to 11:49:37</p> <p>21 be -- if you look at the second page, it 11:49:41</p> <p>22 says, "Exalgo plan, Mike." 11:49:42</p> <p>23 My question is going to be, is 11:49:43</p> <p>24 that you? 11:49:48</p> <p>25 A. I can't recall this 11:49:48</p>

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1 specifically, but I would presume that "Mike" 11:50:04  
 2 is me. 11:50:07  
 3 Q. Okay. So let's start at -- 11:50:08  
 4 let's see here. We'll look at the Exalgo 11:50:13  
 5 section here starting on page 21. It's not 11:50:15  
 6 numbered, but it comes -- 11:50:21  
 7 A. Oh, I thought it was numbered. 11:50:23  
 8 Q. It is. I'm saying but that 11:50:25  
 9 page is not numbered. 11:50:28  
 10 A. Oh, okay. 11:50:28  
 11 Q. It says, "Exalgo plan." It's 11:50:32  
 12 on the cover page. 11:50:32  
 13 A. Yes. 11:50:32  
 14 Q. It's between 21 and -- I'm 11:50:34  
 15 sorry, it's between 20 and 22, so we'll call 11:50:34  
 16 it 21. 11:50:36  
 17 A. Okay. 11:50:36  
 18 Q. So do you know whether you 11:50:39  
 19 prepared this section of the presentation? 11:50:44  
 20 A. I do not. 11:50:46  
 21 Q. Okay. Do you recall presenting 11:50:46  
 22 this section at a medical affairs team 11:50:49  
 23 meeting in 2010? 11:50:51  
 24 MR. DAVISON: Objection. 11:50:53  
 25 THE WITNESS: I do not. 11:50:53

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1 QUESTIONS BY MR. CHALOS: 11:50:54  
 2 Q. Okay. Let's look at then 11:50:57  
 3 page 24 -- 11:51:09  
 4 A. Okay. 11:51:10  
 5 Q. -- "Exalgo brand strategy." 11:51:11  
 6 Is the brand strategy something 11:51:17  
 7 that you had a role in developing? 11:51:19  
 8 A. I believe so. 11:51:20  
 9 Q. Okay. First, on the left-hand 11:51:21  
 10 side, the top bullet point there says, 11:51:26  
 11 "Barriers, negative perceptions of 11:51:28  
 12 hydromorphone: Old, too potent and street 11:51:31  
 13 value, and in parentheses, abuse." 11:51:35  
 14 Do you see that? 11:51:37  
 15 A. Yes. 11:51:38  
 16 Q. Okay. Do you have any idea 11:51:38  
 17 what that means as you sit here today? 11:51:39  
 18 A. I think that that was a 11:51:41  
 19 perception that was common for Dilaudid, 11:51:44  
 20 which was the immediate release hydromorphone 11:51:47  
 21 product. 11:51:51  
 22 Q. How did you know that at the 11:51:51  
 23 time? 11:51:53  
 24 MR. DAVISON: Objection. 11:51:53  
 25 THE WITNESS: I can't remember. 11:51:54

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1 I can't recall. 11:51:55  
 2 QUESTIONS BY MR. CHALOS: 11:51:55  
 3 Q. Is there an opioid problem in 11:52:07  
 4 the US today? 11:52:09  
 5 MR. DAVISON: Objection. 11:52:10  
 6 THE WITNESS: That's a very 11:52:10  
 7 broad question. 11:52:15  
 8 QUESTIONS BY MR. CHALOS: 11:52:17  
 9 Q. Yeah. 11:52:17  
 10 A. Can you be more specific? 11:52:17  
 11 Q. Yeah. Have you heard anything 11:52:18  
 12 about the issue of opioids in the United 11:52:20  
 13 States today? 11:52:23  
 14 MR. DAVISON: Objection. Form. 11:52:23  
 15 THE WITNESS: Sure, it's on the 11:52:24  
 16 news. 11:52:25  
 17 QUESTIONS BY MR. CHALOS: 11:52:26  
 18 Q. Yeah. 11:52:26  
 19 What have you heard about it? 11:52:26  
 20 A. Just what you mentioned, that 11:52:27  
 21 there's an opioid problem. 11:52:30  
 22 Q. Do you think that 11:52:31  
 23 Mallinckrodt's marketing of opioids had any 11:52:40  
 24 role in causing or contributing to the opioid 11:52:44  
 25 problem that we have today? 11:52:47

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1 MR. DAVISON: Objection. 11:52:48  
 2 THE WITNESS: No. 11:52:48  
 3 QUESTIONS BY MR. CHALOS: 11:52:48  
 4 Q. Why do you say that? 11:52:50  
 5 A. I believe our materials were 11:52:51  
 6 compliant with FDA regulations, and I believe 11:52:53  
 7 we marketed the products responsibly. And 11:52:56  
 8 ultimately it was physicians who made 11:53:00  
 9 decisions on to whom to prescribe products. 11:53:02  
 10 Q. Do you think physicians ever 11:53:05  
 11 prescribed Mallinckrodt products 11:53:09  
 12 inappropriately? 11:53:10  
 13 MR. DAVISON: Objection. 11:53:11  
 14 THE WITNESS: I can't 11:53:11  
 15 speculate. 11:53:12  
 16 QUESTIONS BY MR. CHALOS: 11:53:12  
 17 Q. If you'd look at page 27 -- 11:53:16  
 18 sorry, 25, "Exalgo brand strategy." Look at 11:53:20  
 19 the left side of strategy, bottom bullet 11:53:40  
 20 point: "Disrupt and gradient prescribing 11:53:44  
 21 habits through the value proposition for 11:53:46  
 22 Exalgo." 11:53:49  
 23 Do you see that? 11:53:49  
 24 A. Yes. 11:53:49  
 25 Q. What does that mean? 11:53:49

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1	MR. DAVISON: Objection.	11:53:51	1	Mallinckrodt whether physicians prescribed	11:55:30
2	THE WITNESS: Differentiate	11:53:52	2	competitors' products or their own products?	11:55:31
3	Exalgo from competitive products.	11:53:54	3	MR. DAVISON: Objection.	11:55:35
4	QUESTIONS BY MR. CHALOS:	11:53:56	4	THE WITNESS: Does it matter	11:55:35
5	Q. Okay. Let's go back one page	11:53:58	5	whether -- well, it was -- we were	11:55:39
6	to page 24, under Barriers. The last bullet	11:53:59	6	most concerned with making sure that	11:55:40
7	said, "One of the barriers is engrained	11:54:06	7	physicians wrote the product for	11:55:42
8	prescribing habits that reserve use."	11:54:08	8	patients for whom they felt made the	11:55:44
9	Do you see that?	11:54:11	9	most sense for Exalgo and they were	11:55:47
10	A. No.	11:54:11	10	the appropriate patients.	11:55:49
11	Q. Bottom left under "Reposition	11:54:12	11	QUESTIONS BY MR. CHALOS:	11:55:51
12	Hydromorphone Barriers."	11:54:16	12	Q. Right.	11:55:51
13	A. Oh, okay.	11:54:17	13	At the end of the day, though,	11:55:51
14	Q. "Engrained prescribing habits	11:54:18	14	the bottom line was, your goal as a marketing	11:55:52
15	that reserve use."	11:54:19	15	man was to get physicians to prescribe	11:55:54
16	Do you see that?	11:54:20	16	Mallinckrodt products, right?	11:55:56
17	A. Yes.	11:54:21	17	MR. DAVISON: Objection.	11:55:57
18	Q. What does that mean?	11:54:22	18	THE WITNESS: For the	11:55:57
19	MR. DAVISON: Objection.	11:54:23	19	appropriate patients.	11:55:57
20	THE WITNESS: I can't recall.	11:54:24	20	QUESTIONS BY MR. CHALOS:	11:55:59
21	QUESTIONS BY MR. CHALOS:	11:54:24	21	Q. Yes, for the appropriate	11:55:59
22	Q. Okay. Is one of the goals of	11:54:27	22	patients?	11:56:00
23	Mallinckrodt's marketing of Exalgo to change	11:54:30	23	A. Yes, for the appropriate	11:56:00
24	the physician's prescribing habits to include	11:54:33	24	patients.	11:56:01
25	Mallinckrodt's product?	11:54:37	25	Q. Okay. If you look at page 27	11:56:02
Page 151			Page 153		
1	MR. DAVISON: Objection.	11:54:38	1	of Exhibit 14, "Exalgo positioning."	11:56:06
2	THE WITNESS: I would say the	11:54:39	2	Do you see that?	11:56:17
3	goal of our product promotion is to	11:54:40	3	A. Yes.	11:56:17
4	educate physicians on the safe and	11:54:45	4	Q. It says, "For opioid-tolerant	11:56:17
5	appropriate use of Exalgo and	11:54:49	5	patients with moderate to severe chronic	11:56:24
6	differentiate it from the competition	11:54:51	6	pain, Exalgo provides smooth, steady	11:56:26
7	so that they could make a decision on	11:54:53	7	hydromorphone blood levels that eliminate the	11:56:29
8	to whom to prescribe the product.	11:54:55	8	peaks and troughs resulting in 24-hour,	11:56:31
9	QUESTIONS BY MR. CHALOS:	11:54:57	9	continuous chronic pain relief."	11:56:34
10	Q. Was the hope of -- or I'm	11:55:00	10	Do you see that?	11:56:36
11	sorry. Was the goal of the marketing effort	11:55:01	11	A. Yes.	11:56:37
12	to have physicians prescribe competitors'	11:55:03	12	Q. That is an accurate statement	11:56:38
13	products?	11:55:08	13	of the positioning of Exalgo in the market?	11:56:39
14	MR. DAVISON: Objection.	11:55:08	14	MR. DAVISON: Objection.	11:56:42
15	THE WITNESS: I don't believe	11:55:09	15	THE WITNESS: As I recall.	11:56:43
16	that was a goal unless it was for -- I	11:55:10	16	QUESTIONS BY MR. CHALOS:	11:56:44
17	mean, it's all about prescribing it	11:55:14	17	Q. Yeah. Okay.	11:56:44
18	for the appropriate patients, so if	11:55:15	18	And the marketing messages that	11:56:49
19	competitive product made more sense	11:55:19	19	were associated with Exalgo were in support	11:56:51
20	for that particular physician. But	11:55:20	20	of this positioning?	11:56:54
21	that's all within the purview of the	11:55:22	21	MR. DAVISON: Objection.	11:56:56
22	physician and their decision,	11:55:24	22	THE WITNESS: Assuming this is	11:56:57
23	ultimately.	11:55:28	23	the final positioning statement. I	11:56:57
24	QUESTIONS BY MR. CHALOS:	11:55:28	24	think this might have been a document	11:56:59
25	Q. So it didn't matter to	11:55:28	25	that was developed prior to the	11:57:01

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1 launch. 11:57:03

2 QUESTIONS BY MR. CHALOS: 11:57:04

3 Q. Okay. Do you recall any 11:57:04

4 changes to the positioning of Exalgo? 11:57:05

5 A. I don't remember. 11:57:07

6 Q. If you flip over to 28, Core 11:57:08

7 Messaging, the first bullet point is, "New 11:57:15

8 therapies are needed in the treatment of 11:57:27

9 chronic pain." 11:57:28

10 Do you see that? 11:57:29

11 A. Yes. 11:57:29

12 Q. What does that mean? 11:57:29

13 MR. DAVISON: Objection. 11:57:31

14 THE WITNESS: I believe that it 11:57:31

15 means that it's important for 11:57:32

16 physicians to have multiple options in 11:57:34

17 managing patients with chronic pain. 11:57:36

18 QUESTIONS BY MR. CHALOS: 11:57:38

19 Q. Let's flip over to page 34 in 11:57:47

20 Exhibit 14, "Exalgo Tactical Components." 11:57:52

21 Do you see that? 11:57:59

22 A. Yes. 11:58:00

23 Q. Okay. These -- it's got, let 11:58:02

24 me see, five categories here: nonpersonal, 11:58:06

25 medical education, personal, planning and 11:58:10

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1 market research. 11:58:13

2 Do you see that? 11:58:14

3 A. Yes. 11:58:15

4 Q. Are these all categories that 11:58:15

5 ultimately Mallinckrodt undertook tactics in 11:58:18

6 with respect to Exalgo? 11:58:22

7 MR. DAVISON: Objection. 11:58:23

8 THE WITNESS: I can't recall in 11:58:23

9 2010. 11:58:28

10 QUESTIONS BY MR. CHALOS: 11:58:28

11 Q. Okay. What about throughout 11:58:29

12 the life of the Exalgo product's promotion? 11:58:30

13 A. I'm not sure I understand the 11:58:34

14 question. 11:58:35

15 Q. Yeah, these -- I'm saying, did 11:58:35

16 Mallinckrodt use tactics from all five of 11:58:37

17 these categories in connection with promoting 11:58:40

18 Exalgo at any time? 11:58:44

19 MR. DAVISON: Objection. 11:58:44

20 THE WITNESS: Perhaps. I 11:58:45

21 believe so. I can't recall 11:58:49

22 specifically. I believe so. 11:58:50

23 If you're asking did 11:58:52

24 Mallinckrodt embark upon, you know, 11:58:53

25 tactics from each one of these five 11:58:58

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1 categories throughout the life of 11:59:01

2 Exalgo, I believe that is the case. 11:59:02

3 QUESTIONS BY MR. CHALOS: 11:59:03

4 Q. Okay. If you flip over to the 11:59:04

5 next page, 35, "Critical success factors for 11:59:05

6 Exalgo." 11:59:14

7 Do you see that? 11:59:14

8 A. Yes. 11:59:15

9 Q. Okay. The third one, "Pharmacy 11:59:15

10 stocking to enable demand generation." 11:59:19

11 Do you see that? 11:59:21

12 A. Yes. 11:59:21

13 Q. There is that "demand 11:59:22

14 generation" phrase again. 11:59:25

15 Did that come out of your 11:59:26

16 mouth; do you think? 11:59:28

17 MR. DAVISON: Objection. 11:59:28

18 THE WITNESS: I don't remember. 11:59:29

19 QUESTIONS BY MR. CHALOS: 11:59:29

20 Q. Okay. "Pharmacy stocking to 11:59:30

21 enable demand generation," what does that 11:59:31

22 mean? 11:59:33

23 MR. DAVISON: Objection. 11:59:33

24 THE WITNESS: I believe that 11:59:34

25 means having the product available for 11:59:35

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1 physicians when they prescribed the 11:59:39

2 product for appropriate patients. 11:59:43

3 QUESTIONS BY MR. CHALOS: 11:59:44

4 Q. Okay. And who was going to 11:59:44

5 generate the demand in this concept? 11:59:45

6 MR. DAVISON: Objection. 11:59:48

7 THE WITNESS: That has to do 11:59:50

8 with physicians prescribing the 11:59:52

9 product, so the sales force would be 11:59:54

10 responsible for educating physicians 11:59:56

11 on the product for the appropriate 11:59:59

12 patients. 12:00:01

13 QUESTIONS BY MR. CHALOS: 12:00:01

14 Q. Okay. With the goal of 12:00:01

15 generating demand for prescriptions for 12:00:03

16 appropriate patients? 12:00:05

17 MR. DAVISON: Objection. 12:00:06

18 THE WITNESS: With the goal of, 12:00:06

19 you know, the physician writing the 12:00:08

20 product when appropriate. 12:00:09

21 QUESTIONS BY MR. CHALOS: 12:00:10

22 Q. Okay. You can put that aside 12:00:11

23 then. 12:00:15

24 THE WITNESS: Are we going to 12:00:33

25 be taking take a lunch break soon? 12:00:33



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1 MR. CHALOS: Well, what I was 12:00:35  
 2 hoping is maybe we can get through 12:00:36  
 3 this and skip lunch and just be done, 12:00:38  
 4 if you guys can power through a little 12:00:39  
 5 bit. 12:00:41  
 6 MR. DAVISON: Why don't we take 12:00:41  
 7 a quick break and we can discuss -- 12:00:42  
 8 THE WITNESS: Yeah, I just need 12:00:43  
 9 a quick -- 12:00:44  
 10 MR. CHALOS: No problem. And 12:00:44  
 11 then I think I could probably do the 12:00:45  
 12 rest in 45 minutes, so... 12:00:47  
 13 MR. DAVISON: Okay. 12:00:48  
 14 VIDEOGRAPHER: We are going off 12:00:49  
 15 the record at 12 p.m. 12:00:50  
 16 (Off the record at 12:00 p.m.) 12:00:52  
 17 VIDEOGRAPHER: We are back on 12:07:49  
 18 the record at 12:07 p.m. 12:07:50  
 19 (Mallinckrodt-Wessler Exhibit 12:07:52  
 20 15 marked for identification.) 12:07:53  
 21 QUESTIONS BY MR. CHALOS: 12:07:53  
 22 Q. Okay. Let's mark as Exhibit 15 12:07:54  
 23 MNK-T1\_0000778285 through 8350. It's 12:07:56  
 24 Exhibit 15. 12:08:09  
 25 A. Okay. 12:08:09

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1 Q. You can take as much time as 12:08:09  
 2 you need to review that. 12:08:15  
 3 My first question will be what 12:08:24  
 4 role, if any, did you have in preparing this 12:08:26  
 5 document? 12:08:28  
 6 A. Okay. 12:08:28  
 7 Q. Okay. So what role, if any, 12:11:31  
 8 did you have in preparing this document? 12:11:35  
 9 A. I don't recall specifically, 12:11:37  
 10 but I'm sure I participated in, you know, 12:11:39  
 11 development of the market -- some of the 12:11:43  
 12 marketing components of this. 12:11:44  
 13 Q. Okay. 12:11:46  
 14 A. But I can't recall specifically 12:11:46  
 15 who developed this. 12:11:47  
 16 Q. Was this launch update 12:11:48  
 17 presented at a meeting of some kind? 12:11:51  
 18 A. It seems so. 12:11:53  
 19 Q. Okay. 12:11:55  
 20 A. I don't know if this was 12:11:55  
 21 ultimately presented, but it would make 12:11:56  
 22 sense. 12:12:01  
 23 Q. Okay. The front page it says, 12:12:02  
 24 "32-milligram launch update, June 25th of 12:12:03  
 25 2012." 12:12:07

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1 Do you recall a launch meeting 12:12:08  
 2 for Exalgo at some point? 12:12:10  
 3 A. There were lots of launch 12:12:12  
 4 meetings. 12:12:15  
 5 Can you be more specific? 12:12:15  
 6 Q. Yeah. I mean, was there one 12:12:16  
 7 big, like, kickoff launch event? 12:12:19  
 8 A. With the sales force or period 12:12:21  
 9 or -- 12:12:23  
 10 Q. Well, let's start with the 12:12:23  
 11 sales force. 12:12:25  
 12 Was there one with the sales 12:12:25  
 13 force? 12:12:27  
 14 A. There was one with the sales 12:12:27  
 15 force where we trained them on, you know, the 12:12:29  
 16 new marketing tools. 12:12:30  
 17 Q. Okay. Was there one with 12:12:31  
 18 anybody other than the sales force? 12:12:32  
 19 A. Not that I recall. But, I 12:12:33  
 20 mean, there were all kinds of meetings that 12:12:36  
 21 talked about the launch of the product -- 12:12:37  
 22 Q. Okay. 12:12:39  
 23 A. -- certainly. 12:12:40  
 24 Q. Let's look at the page -- let 12:12:42  
 25 me see. It's 8288. It's like the fourth 12:12:46

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1 page of Exhibit 15. 12:12:51  
 2 Market opportunity? 12:12:54  
 3 A. Yeah. 12:12:58  
 4 Q. It says, "High-strength 12:12:59  
 5 prescriptions make up 66 percent of the 12:13:02  
 6 market dollars." 12:13:10  
 7 Do you see that? 12:13:11  
 8 A. Yes. 12:13:12  
 9 Q. Okay. There's a source, 12:13:13  
 10 IMS/NSP, written on the bottom left. 12:13:15  
 11 Do you see that? 12:13:18  
 12 A. Yes. 12:13:18  
 13 Q. Is this data that you think you 12:13:19  
 14 pulled together for this presentation? 12:13:20  
 15 A. I don't recall. I think 12:13:22  
 16 generally this type of information would be 12:13:24  
 17 pulled from the ops team. 12:13:26  
 18 Q. The ops team? 12:13:28  
 19 A. Sales operations. 12:13:30  
 20 Q. Okay. 12:13:31  
 21 A. Because I don't remember having 12:13:31  
 22 access to IMS/NSP. 12:13:33  
 23 Q. Okay. If you would turn, 12:13:37  
 24 please, to 8293, Launch Objectives. 12:13:42  
 25 Did you have any role in 12:13:55

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1 preparing this section, do you think, launch 12:14:02  
 2 objectives? 12:14:06  
 3 A. I really don't remember. 12:14:06  
 4 Q. Okay. If you look at -- and 12:14:07  
 5 let's back up here. 12:14:10  
 6 The 32-milligram launch, this 12:14:11  
 7 is a new dosage of an existing product on the 12:14:14  
 8 market, Exalgo, right? 12:14:17  
 9 A. Correct. 12:14:18  
 10 Q. So prior to this launch, the -- 12:14:18  
 11 Exalgo was available in up to 16-milligram 12:14:22  
 12 dosage? 12:14:25  
 13 A. Specifically 8-milligram, 12:14:25  
 14 12-milligram and 16-milligram strengths. 12:14:27  
 15 Q. Okay. So what was being 12:14:28  
 16 launched here in 2012 was same drug but at a 12:14:31  
 17 higher dosage level; is that right? 12:14:35  
 18 A. Yes. 12:14:37  
 19 Q. Okay. The -- under launch 12:14:38  
 20 objectives, back to page 8923, the fifth row 12:14:45  
 21 says, "Exalgo mean dose exit as a launch 12:14:49  
 22 objective." Fiscal year '12 was 12:14:54  
 23 21 milligrams. Fiscal year '13 was 12:14:57  
 24 32 milligrams. 12:14:59  
 25 Do you see that? 12:15:00

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1 A. Yes. 12:15:00  
 2 Q. Do you have any idea what all 12:15:00  
 3 of that means? 12:15:01  
 4 A. I do not recall. 12:15:02  
 5 Q. Was one of the launch 12:15:03  
 6 objectives to increase the mean dose of 12:15:07  
 7 Exalgo among patients? 12:15:09  
 8 MR. DAVISON: Objection. 12:15:10  
 9 THE WITNESS: Not that I can 12:15:13  
 10 recall. 12:15:14  
 11 QUESTIONS BY MR. CHALOS: 12:15:14  
 12 Q. Okay. Were you involved in the 12:15:19  
 13 pricing of Exalgo? 12:15:20  
 14 A. I participated in meetings on 12:15:22  
 15 the pricing. 12:15:24  
 16 Q. Okay. Did you have input into 12:15:25  
 17 the pricing strategy? 12:15:26  
 18 A. Limited. 12:15:28  
 19 Q. Limited to what? 12:15:30  
 20 A. I mean, I had input, but I 12:15:31  
 21 wasn't a decision-maker on the final price. 12:15:34  
 22 Q. Okay. If you look at 12:15:36  
 23 page 8303, "Pricing sensitivity analysis, 12:15:45  
 24 executive summary." 12:15:53  
 25 Do you see that? 12:15:53

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1 A. Yes. 12:15:55  
 2 Q. Okay. And you can look at all 12:15:56  
 3 this, but the recommendation ultimately was 12:15:59  
 4 that a 5 percent premium price on the 12:16:03  
 5 32-milligram dose at launch realizes about 8 12:16:07  
 6 million in net sales. 12:16:10  
 7 Do you see that? 12:16:11  
 8 A. Yes. 12:16:12  
 9 MR. DAVISON: Objection. 12:16:13  
 10 QUESTIONS BY MR. CHALOS: 12:16:13  
 11 Q. Did you have any role in 12:16:13  
 12 forming that recommendation? 12:16:16  
 13 A. Not that I can recall. 12:16:17  
 14 Q. You can flip then to page 8305. 12:16:19  
 15 It says, "Wholesaler off invoice-OI." 12:16:31  
 16 Do you see that? 12:16:36  
 17 A. Yes. 12:16:36  
 18 Q. What does that mean? 12:16:38  
 19 A. I don't recall. 12:16:39  
 20 Q. Did you have any role in 12:16:40  
 21 establishing an off-invoice program for 12:16:45  
 22 wholesalers? 12:16:49  
 23 MR. DAVISON: Objection. 12:16:49  
 24 THE WITNESS: Not that I can 12:16:49  
 25 recall. That was generally handled by 12:16:51

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1 our sort of trade group. 12:16:53  
 2 QUESTIONS BY MR. CHALOS: 12:16:53  
 3 Q. Okay. If you flip then to 12:16:54  
 4 8307, "Retail stocking incentive program." 12:17:02  
 5 It's "pharmacy stock incentive program 12:17:09  
 6 considerations for 32-milligram launch." 12:17:12  
 7 Did you have any role in the 12:17:14  
 8 retail stocking incentive program for 12:17:16  
 9 pharmacies? 12:17:19  
 10 A. Similar to the previous 12:17:20  
 11 question, not that I can recall. It was 12:17:22  
 12 usually handled by our trade group. 12:17:24  
 13 Q. Okay. Let's flip these to 12:17:28  
 14 8309, "Stocking Tools." 12:17:33  
 15 "Physician stocking request 12:17:34  
 16 pad." 12:17:45  
 17 Do you see that pad? 12:17:45  
 18 A. Yes. 12:17:46  
 19 Q. Is this -- in the bottom right 12:17:47  
 20 there's a little picture of something called 12:17:50  
 21 a physician stocking request. 12:17:51  
 22 Do you see that? 12:17:53  
 23 A. Yes. 12:17:54  
 24 Q. Is that something that was 12:17:54  
 25 printed by Mallinckrodt and given to doctors? 12:17:56

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<p>1 A. It wasn't printed by 12:17:59</p> <p>2 Mallinckrodt; it was printed by one of our 12:18:00</p> <p>3 printing vendors. But, yes, it was -- it was 12:18:02</p> <p>4 used by the sales representatives. 12:18:07</p> <p>5 Q. Okay. And they would present 12:18:10</p> <p>6 this to a doctor for the doctor's signature? 12:18:11</p> <p>7 MR. DAVISON: Objection. 12:18:14</p> <p>8 THE WITNESS: I believe so. 12:18:15</p> <p>9 QUESTIONS BY MR. CHALOS: 12:18:18</p> <p>10 Q. Okay. 12:18:21</p> <p>11 A. I know that's how they were 12:18:22</p> <p>12 trained. 12:18:24</p> <p>13 Q. That is how they were trained? 12:18:24</p> <p>14 A. I believe so. 12:18:26</p> <p>15 Q. Okay. Were they also trained 12:18:27</p> <p>16 to then carry the physician stocking request 12:18:28</p> <p>17 to the pharmacy themselves, meaning the sales 12:18:31</p> <p>18 reps do that? 12:18:35</p> <p>19 MR. DAVISON: Objection. 12:18:36</p> <p>20 THE WITNESS: I believe they 12:18:37</p> <p>21 would. 12:18:40</p> <p>22 QUESTIONS BY MR. CHALOS: 12:18:40</p> <p>23 Q. Is that how they were trained? 12:18:40</p> <p>24 A. I believe so. 12:18:41</p> <p>25 Q. Okay. 12:18:42</p>	<p>1 Q. Okay. Let's please turn to 12:19:25</p> <p>2 8312, "New Dose Conversion Tools." 12:19:32</p> <p>3 First bullet point is, "New 12:19:39</p> <p>4 dosing guide rolled out at April POA 12:19:50</p> <p>5 meeting." 12:19:53</p> <p>6 Do you see that? 12:19:54</p> <p>7 A. Yes. 12:19:54</p> <p>8 Q. What's POA? 12:19:55</p> <p>9 A. I think it's plan of action. 12:19:55</p> <p>10 Q. Okay. Was there a new dosing 12:19:57</p> <p>11 guide produced in connection with Exalgo 12:19:58</p> <p>12 32 milligrams? 12:20:00</p> <p>13 A. I believe so, but I can't 12:20:01</p> <p>14 recall. 12:20:03</p> <p>15 Q. Okay. Was there a free trial 12:20:03</p> <p>16 program for patients to receive a free trial 12:20:07</p> <p>17 of Exalgo? 12:20:10</p> <p>18 A. I believe so. 12:20:10</p> <p>19 Q. Okay. Was there a new iPad app 12:20:11</p> <p>20 introduced at some point? 12:20:14</p> <p>21 A. I believe so. 12:20:14</p> <p>22 Q. And do you know, was there an 12:20:15</p> <p>23 Exalgo regional teleconference series? 12:20:17</p> <p>24 A. That, I don't know. 12:20:20</p> <p>25 Q. Okay. If you'd flip to the 12:20:22</p>
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<p>1 A. But I can't recall 12:18:42</p> <p>2 specifically. 12:18:43</p> <p>3 Q. All right. Let's go back to 12:18:44</p> <p>4 8308, which is the preceding page. It's 12:18:46</p> <p>5 "Trade Communications." 12:18:53</p> <p>6 Do you see that? 12:18:54</p> <p>7 A. Yes. 12:18:54</p> <p>8 Q. "e-Pharm alert to coincide with 12:18:55</p> <p>9 product availability, reaching 176,000 12:18:58</p> <p>10 pharmacists." 12:19:01</p> <p>11 Do you see that? 12:19:01</p> <p>12 A. Yes. 12:19:01</p> <p>13 Q. Was that actually done in 12:19:02</p> <p>14 connection with the Exalgo 32 milligrams? 12:19:04</p> <p>15 A. I can't recall. 12:19:05</p> <p>16 Q. Was there a product 12:19:06</p> <p>17 announcement letter to retailers in 12:19:07</p> <p>18 connection with this launch? 12:19:10</p> <p>19 A. I can't recall if that ever 12:19:11</p> <p>20 went out. 12:19:13</p> <p>21 Q. Okay. Do you know whether any 12:19:14</p> <p>22 of the bullet points on page 8308 of 12:19:15</p> <p>23 Exhibit 15 ever actually occurred with 12:19:21</p> <p>24 respect to Exalgo 32 milligrams? 12:19:22</p> <p>25 A. I cannot recall. 12:19:24</p>	<p>1 next page, 8313. 12:20:23</p> <p>2 A. Yes. 12:20:30</p> <p>3 Q. Was there a three-star 12:20:31</p> <p>4 prescriber and 16-milligram pharmacy 12:20:33</p> <p>5 targeting program rolled out with respect to 12:20:35</p> <p>6 Exalgo 32 milligrams? 12:20:37</p> <p>7 MR. DAVISON: Objection. 12:20:38</p> <p>8 THE WITNESS: Not that I can 12:20:38</p> <p>9 recall. 12:20:39</p> <p>10 QUESTIONS BY MR. CHALOS: 12:20:39</p> <p>11 Q. Okay. Let's flip, please, to 12:20:40</p> <p>12 82 -- sorry, 8323. 12:20:52</p> <p>13 A. Sorry, you said 8323? 12:20:55</p> <p>14 Q. 8323, yes, sir, "Concept rank." 12:20:58</p> <p>15 A. Okay. 12:21:01</p> <p>16 Q. And there are one, two, three, 12:21:02</p> <p>17 four, five marketing concepts outlined here 12:21:08</p> <p>18 with little pictures on the right. 12:21:14</p> <p>19 Do you see that? 12:21:16</p> <p>20 A. Yes. 12:21:16</p> <p>21 Q. Were all five of these concepts 12:21:17</p> <p>22 ultimately used with connection -- in 12:21:19</p> <p>23 connection with Exalgo 32 milligrams? 12:21:22</p> <p>24 A. No. 12:21:23</p> <p>25 Q. Which ones were used, if you 12:21:24</p>

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1 remember? 12:21:25

2 A. I believe just the top one. 12:21:25

3 Q. "Change the face of pain"? 12:21:27

4 A. Correct. 12:21:28

5 Q. Okay. With the woman peeling 12:21:29

6 her face off? 12:21:33

7 MR. DAVISON: Objection. 12:21:34

8 THE WITNESS: Correct. 12:21:34

9 QUESTIONS BY MR. CHALOS: 12:21:35

10 Q. Okay. Did you design that 12:21:36

11 concept? 12:21:37

12 A. I did not. 12:21:37

13 Q. Do you know who did? 12:21:38

14 A. Our advertising agency. 12:21:40

15 Q. Okay. If you can flip to 8337 12:21:42

16 of Exhibit 15, "Catalina marketing 12:21:47

17 persistency." 12:22:03

18 Do you see that? 12:22:04

19 A. Yes. 12:22:05

20 Q. There's a program design with a 12:22:05

21 set of bullet points about messaging Exalgo 12:22:07

22 patients. 12:22:08

23 Did that ever actually happen? 12:22:08

24 A. Not to my recollection. 12:22:11

25 Q. Catalina marketing, is that an 12:22:12

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1 outside vendor? 12:22:14

2 A. I believe so. 12:22:15

3 Q. Okay. Was there ever any 12:22:16

4 messaging to existing Exalgo patients 12:22:18

5 directly? 12:22:26

6 MR. DAVISON: Objection. 12:22:27

7 THE WITNESS: Not that I can 12:22:27

8 recall. 12:22:29

9 QUESTIONS BY MR. CHALOS: 12:22:29

10 Q. In other words, they're out 12:22:30

11 running a program where -- messages going out 12:22:34

12 to Exalgo patients when they're filling the 12:22:36

13 prescription, between the fills and being 12:22:38

14 late on fills. 12:22:41

15 Is there any such program, 12:22:42

16 whether it's Catalina or any other vendor? 12:22:44

17 MR. DAVISON: Objection. 12:22:47

18 THE WITNESS: Is there any such 12:22:47

19 a program, or did Exalgo use any such 12:22:49

20 a program? 12:22:51

21 QUESTIONS BY MR. CHALOS: 12:22:52

22 Q. Right, did Exalgo use any such 12:22:52

23 a program. 12:22:54

24 A. Not to my knowledge. Not that 12:22:55

25 I can remember. 12:22:58

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1 Q. Okay. How about if you flip to 12:22:58

2 the next page, "Adheris Marketing 12:22:59

3 Persistency." 12:23:05

4 Was this program ever 12:23:12

5 implemented with respect to Exalgo? 12:23:14

6 A. Not to my knowledge. 12:23:15

7 (Mallinckrodt-Wessler Exhibit 12:23:32

8 16 marked for identification.) 12:23:32

9 QUESTIONS BY MR. CHALOS: 12:23:32

10 Q. I'll mark as Exhibit 16 12:23:41

11 MNK-T1\_0000942223, and it says "FY '15 12:23:48

12 Xartemis XR Brand Planning, Key Strategic 12:23:58

13 Imperatives and Critical Success Factors, 12:24:01

14 August 7, 2014, Michael Wessler, product 12:24:05

15 director." 12:24:08

16 First question will be, did you 12:24:09

17 prepare this or was this prepared at your 12:24:26

18 direction. 12:24:27

19 Okay. You ready? 12:26:49

20 A. Yes. 12:26:50

21 Q. So did you prepare this 12:26:50

22 preparation or was it prepared at your 12:26:53

23 direction? 12:26:55

24 A. I don't recall specifically. 12:26:55

25 Q. Do you recall giving this 12:26:59

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1 presentation somewhere? 12:27:01

2 A. I don't recall. 12:27:02

3 Q. Xartemis was -- well, let's 12:27:04

4 flip over to the second page. We'll just 12:27:11

5 look at this. 12:27:14

6 A. Sure. 12:27:15

7 Q. The brand vision for Xartemis 12:27:15

8 was to establish Xartemis XR as the 12:27:17

9 first-line opioid agent for acute pain in 12:27:22

10 targeted accounts; is that right? 12:27:25

11 A. That's what it says, yes. 12:27:27

12 Q. What is a targeted account? 12:27:29

13 A. That would be physicians' 12:27:32

14 offices where our sales representatives were 12:27:34

15 educating. 12:27:38

16 Q. Okay. If you flip, please, 12:27:40

17 to -- well, no page numbers. Strategic 12:28:00

18 imperative number 1, the second page of it, 12:28:04

19 it says, "key insight" -- oh, wait. Whoa, 12:28:08

20 wait a minute. What? There are -- 12:28:10

21 So "Strategic imperative 12:28:13

22 number 1, key insight, surgery center 12:28:15

23 show" -- no, it's the next one, I think. 12:28:20

24 Yeah, there it is. 12:28:24

25 Okay. Well, it says, 12:28:25



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<p>1 "Strategic imperative number 1, CSF 2, 12:28:30</p> <p>2 explore leveraging hospital sales force." 12:28:36</p> <p>3 Do you see that? 12:28:40</p> <p>4 A. Yes. 12:28:40</p> <p>5 Q. Okay. I'm looking at the third 12:28:41</p> <p>6 major bullet on the right, "Although not a 12:28:59</p> <p>7 strong revenue driver, hospital channel 12:28:47</p> <p>8 provides access to discharge RX." 12:28:50</p> <p>9 Do you see that? 12:28:53</p> <p>10 A. Yes. 12:28:53</p> <p>11 Q. Okay. What role did you have, 12:28:54</p> <p>12 if any, at Mallinckrodt in marketing to 12:28:55</p> <p>13 hospitals? 12:28:59</p> <p>14 A. I believe that at this time, 12:29:04</p> <p>15 this was around the time of the OFIRMEV sales 12:29:10</p> <p>16 force, which was -- which was an 12:29:14</p> <p>17 acetaminophen IV product that came on board, 12:29:16</p> <p>18 and this is talking about leveraging that 12:29:19</p> <p>19 sales force in the promotion of Xartemis XR. 12:29:22</p> <p>20 Q. Okay. OFIRMEV is 12:29:25</p> <p>21 O-F-I-R-M-E-V? 12:29:29</p> <p>22 A. Sorry, I almost have to see it 12:29:30</p> <p>23 written out. I believe so. 12:29:32</p> <p>24 Q. I'm just reading it from that 12:29:33</p> <p>25 page. 12:29:36</p>	<p>1 A. Yes. 12:30:32</p> <p>2 Q. Do you know what that means? 12:30:32</p> <p>3 A. I don't remember specifically. 12:30:34</p> <p>4 I believe that there weren't any sort of 12:30:39</p> <p>5 guidelines from any physician society around 12:30:41</p> <p>6 specifically what products to use and how to 12:30:47</p> <p>7 treat acute pain. 12:30:49</p> <p>8 Q. Were there ever any established 12:30:51</p> <p>9 guidelines developed for treatment of acute 12:30:53</p> <p>10 pain, to your knowledge? 12:30:54</p> <p>11 MR. DAVISON: Objection. 12:30:55</p> <p>12 THE WITNESS: I don't know. 12:30:55</p> <p>13 QUESTIONS BY MR. CHALOS: 12:30:56</p> <p>14 Q. What was MNK 155? 12:30:57</p> <p>15 A. That was a product in 12:31:00</p> <p>16 development at Mallinckrodt. 12:31:04</p> <p>17 Q. Did it ever make it to market? 12:31:05</p> <p>18 A. I do not recall. I don't 12:31:07</p> <p>19 believe so. 12:31:09</p> <p>20 Q. Let's flip to "Strategic 12:31:09</p> <p>21 imperative number 3, key insights, around 12:31:19</p> <p>22 30 percent of commercial ads." Yeah, that's 12:31:25</p> <p>23 it. You got it. 12:31:27</p> <p>24 Strategic imperative number 3, 12:31:29</p> <p>25 I'm looking at the third bullet point, "Top 12:31:33</p>
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<p>1 A. Oh, okay. Oh, there it is, 12:29:37</p> <p>2 yes, I'm sorry. 12:29:38</p> <p>3 Q. Okay. What was OFIRMEV? 12:29:39</p> <p>4 A. An intravenous acetaminophen 12:29:43</p> <p>5 product. 12:29:46</p> <p>6 Q. Okay. Nonopioid? 12:29:46</p> <p>7 A. Correct. 12:29:48</p> <p>8 Q. Okay. So did you have any role 12:29:48</p> <p>9 in marketing OFIRMEV? 12:29:49</p> <p>10 A. Very peripherally towards the 12:29:51</p> <p>11 end of my time at Mallinckrodt. 12:29:58</p> <p>12 Q. And what was your role? 12:29:59</p> <p>13 A. I think I reviewed a couple of 12:30:00</p> <p>14 tactics. It was, like I said, towards the 12:30:02</p> <p>15 end of my time at Mallinckrodt. I don't 12:30:04</p> <p>16 remember what specifically they were, though. 12:30:10</p> <p>17 Q. Did you have any role in 12:30:11</p> <p>18 marketing to hospital formularies? 12:30:12</p> <p>19 A. Not to hospital formularies, 12:30:15</p> <p>20 no. 12:30:19</p> <p>21 Q. Okay. If you flip to the next 12:30:19</p> <p>22 page, "Key insights, lack of consensus and no 12:30:21</p> <p>23 established guidelines for the treatment of 12:30:29</p> <p>24 acute pain." 12:30:31</p> <p>25 Do you see that? 12:30:31</p>	<p>1 limitations to use Xartemis XR prescribing 12:31:36</p> <p>2 are patient out-of-pocket costs and managed 12:31:39</p> <p>3 care coverage." 12:31:41</p> <p>4 Do you see that? 12:31:42</p> <p>5 A. Yes. 12:31:43</p> <p>6 Q. What does that mean? 12:31:44</p> <p>7 A. That means that we were not 12:31:46</p> <p>8 well-covered on managed care plans. Our 12:31:48</p> <p>9 Xartemis XR was not well-covered on managed 12:31:52</p> <p>10 care plans. 12:31:55</p> <p>11 Q. Did you play a role in 12:31:55</p> <p>12 marketing Xartemis to managed care plans? 12:31:56</p> <p>13 MR. DAVISON: Objection. 12:31:59</p> <p>14 THE WITNESS: No. That was 12:31:59</p> <p>15 handled by our managed care group. 12:32:00</p> <p>16 QUESTIONS BY MR. CHALOS: 12:32:02</p> <p>17 Q. Okay. Next bullet is, 12:32:02</p> <p>18 "Coverage is consistent with other recently 12:32:06</p> <p>19 launched brands; however, market is 12:32:08</p> <p>20 ubiquitously generic." 12:32:13</p> <p>21 Do you see that? 12:32:15</p> <p>22 A. Yes. 12:32:15</p> <p>23 Q. What does that mean? 12:32:15</p> <p>24 A. That means the acute pain 12:32:18</p> <p>25 market is -- consists mostly of generic 12:32:20</p>

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1 products. 12:32:24

2 Q. That was a challenge to 12:32:24

3 marketing Xartemis? 12:32:34

4 A. Yeah, the fact that Xartemis XR 12:32:38

5 had a high co-pay relative to the competitive 12:32:41

6 products, yes. 12:32:46

7 Q. And Mallinckrodt put in place a 12:32:46

8 co-pay discount program for Xartemis at some 12:32:50

9 point? 12:32:56

10 A. I believe so. 12:32:56

11 MR. CHALOS: Okay. You can put 12:33:04

12 that aside for now. 12:33:04

13 I may be about finished, so why 12:33:06

14 don't we -- we don't have to get up. 12:33:08

15 If you can just let Peter and I go 12:33:11

16 talk for just a minute, and then -- so 12:33:14

17 we may be just about finished, or may 12:33:17

18 be finished. 12:33:20

19 VIDEOGRAPHER: We are going off 12:33:20

20 the record at 12:33 p.m. 12:33:21

21 (Off the record at 12:33 p.m.) 12:33:23

22 VIDEOGRAPHER: We are back on 12:35:55

23 the record at 12:35 p.m. 12:35:56

24 MR. CHALOS: Okay. Thank you 12:35:58

25 for being here today, Mr. Wessler. I 12:35:59

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1 have no more questions for you at this 12:36:01

2 time subject to our discussion at the 12:36:02

3 beginning of the deposition. So thank 12:36:03

4 you. 12:36:04

5 THE WITNESS: Thank you. 12:36:04

6 VIDEOGRAPHER: We are going off 12:36:06

7 the record at 12:35 p.m. 12:36:07

8 (Deposition concluded at 12:35 p.m.) 12:36:09

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1 CERTIFICATE

2

3 I, CARRIE A. CAMPBELL, Registered

4 Diplomate Reporter, Certified Realtime

5 Reporter and Certified Shorthand Reporter, do

6 hereby certify that prior to the commencement

7 of the examination, Michael Wessler was duly

8 sworn by me to testify to the truth, the

9 whole truth and nothing but the truth.

10 I DO FURTHER CERTIFY that the

11 foregoing is a verbatim transcript of the

12 testimony as taken stenographically by and

13 before me at the time, place and on the date

14 hereinbefore set forth, to the best of my

15 ability.

16

17 I DO FURTHER CERTIFY that I am

18 neither a relative nor employee nor attorney

19 nor counsel of any of the parties to this

20 action, and that I am neither a relative nor

21 employee of such attorney or counsel, and

22 that I am not financially interested in the

23 action.

24

25

17 CARRIE A. CAMPBELL, \_\_\_\_\_

18 NCRA Registered Diplomate Reporter

19 Certified Realtime Reporter

20 Notary Public

21 Dated: January 16, 2019

22

23

24

25

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1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over

4 carefully and make any necessary corrections.

5 You should state the reason in the

6 appropriate space on the errata sheet for any

7 corrections that are made.

8 After doing so, please sign the

9 errata sheet and date it. You are signing

10 same subject to the changes you have noted on

11 the errata sheet, which will be attached to

12 your deposition.

13 It is imperative that you return

14 the original errata sheet to the deposing

15 attorney within thirty (30) days of receipt

16 of the deposition transcript by you. If you

17 fail to do so, the deposition transcript may

18 be deemed to be accurate and may be used in

19 court.

20

21

22

23

24

25

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## ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
 hereby certify that I have read the foregoing  
 pages and that the same is a correct  
 transcription of the answers given by me to  
 the questions therein propounded, except for  
 the corrections or changes in form or  
 substance, if any, noted in the attached  
 Errata Sheet.

Michael Wessler      DATE

Subscribed and sworn to before me this  
 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
 My commission expires: \_\_\_\_\_

Notary Public

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## LAWYER'S NOTES

PAGE    LINE

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## ERRATA

PAGE    LINE    CHANGE/REASON